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SRI K. P. GOPALAN :—“ If it is anybody outside the jail, he can go to any medical practitioner to get treatment. But regarding the prisoners in jail it is the sole responsibility of the Government to see that the health of the prisoners is maintained. That is why I want to invite the kind attention of the Government to take remedial measures. Hence, I have brought this adjournment motion before this House.”

THE HON. SRI C. SUBRAMANIAM :—“ May I appeal to the hon. Member not to take a jaundiced view of the things? ”

MR. SPEAKER :—“ This is not a matter of urgent public importance. I rule this out of order.”

IV.—GOVERNMENT BILLS.

(1) THE MADRAS COURT-FEES AND SUITS VALUATION BILL, 1954—*cont.*

*Clause 30.*9-40
a.m.

MR. SPEAKER :—“ The motion is—

‘ That clause 30 do stand part of the Bill.’ ”

SRI P. K. GOPALAKRISHNAN :—“ Sir, I move the following amendment (127) :—

‘ In line A, after the words “ computed on ” insert the words “ one-half of ”.’ ”

The amendment was duly seconded.

SRI S. PANCHAKSHARAM :—“ Sir, I move the following amendment (223) :—

‘ For “ four hundred ”, substitute “ one hundred ”.’ ”

The amendment was duly seconded.

SRI V. GOPALA GOUNDER :—“ Sir, I move the following amendment (30) :—

‘ For the words “ four hundred ”, substitute the words “ two hundred ”.’ ”

The amendment was duly seconded.

SRI P. S. KRISHNASWAMY AYYANGAR :—“ Sir, I move the following amendment (33) :—

‘ Renumber the present clause as sub-clause (1) of that clause and insert the following as sub-clause (2) :—

“ (2) Where the property has no market value, the plaintiff shall, having regard to the magnitude and importance of the property state in the plaint a reasonable amount

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as the value of the suit for jurisdictional purposes and the court-fee in such a suit shall be paid at the following rates :—

When the plaint is presented to—

- (i) *a District Munsif's Court : Rupees thirty.*
- (ii) *the City Civil Court, Rupees two hundred. Madras, or a Sub-Court or a District Court :*
- (iii) *the High Court : Rupees three hundred.*

The amendment was duly seconded.

SRI P. K. GOPALAKRISHNAN :—“ Sir, I move the following amendment (128) :—

‘ Omit the words “ or on rupees four hundred, whichever is higher ”. ’

The amendment was duly seconded.

SRI S. PANCHAKSHARAM :—“ My amendment is simple. I want that ‘ 100 ’ should be substituted for ‘ 400 ’. In the other cases, the Hon. the Finance Minister agreed to ‘ 300 ’. That may be accepted in this case also.”

* SRI P. K. GOPALAKRISHNAN :—“ This clause provides for suits for possession not otherwise provided for. No dispute in title is involved. Therefore, only a smaller fee may be levied. That is why I have moved two amendments. One amendment is to the effect that the fee may be computed on one-half of the market value and not on the market value of the property. The other is to delete the provision regarding the minimum fee fixed. In case the Government are not prepared to agree to the latter, they may at least agree to reduce the fee on Rs. 100 or Rs. 200.”

SRI V. GOPALA GOUNDER :—“ As agreed to by the Hon. Minister in the case of suits for declaration of possession, he may agree to reduce the figure ‘ 400 ’ to at least ‘ 300 ’ by way of compromise.”

* SRI P. S. KRISHNASWAMY AYYANGAR :—“ Sir, the clause as it is refers only to properties which have got a market value. Provision has not been made for cases of properties which have no market value. My amendment makes provision for categories of properties which have no market value. The Hon. Minister may say that properties having no market value may come under ‘ trust properties ’. May I refer to a temple which has not got a value. All temples are not public temples. No doubt, when we refer to public temples, there may be trustees and public temples may be trust properties. But there may be private temples. Again, within a zamindari the course of the river and the river-bed may be the property of the zamindar. It will be property which has no market value. Suppose a person trespasses upon a portion of the river-bed. The zamindar should be in a position to eject him. When he files a suit to eject a trespasser from a portion of the river-bed what is to be the value of the property for purposes of jurisdictions.”

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* THE HON. SRI C. SUBRAMANIAM :—“ May I appeal to the hon. Member and tell him that without all these illustrations I am able to catch the point? So, it is enough if he mentions the point and then leaves it to me to accept it or not to accept it. He need not be elaborate in arguing the case.”

* SRI P. S. KRISHNASWAMY AYYANGAR :—“ Then, I only want to know whether the Hon. Minister accepts my amendment or not. Further, the point should be known to all Members and not to the Minister alone. It is only with that object that I am a bit elaborate.”

SRI V. R. KRISHNA AYYAR :—“ Sir, it is presumptuous for the hon. Member to think that the other Members are less intelligent than the Hon. Minister. Therefore, if he is going to be brief for the sake of the Hon. Minister, he could as well be brief for the sake of the other Members also. Apart from that, the only point which I want to impress upon the Hon. Minister—although perhaps in vain—is this. In regard to clause 30, quite a large number of suits for recovery of possession in Malabar—I can speak from my own experience in Malabar—may cover only a few cents, and if the computation is made on the basis of revenue, it will be very, very low. But, now the minimum of Rs. 400 raises the court-fee to a very high level. If the land is unassessed, then also the profits will be next to nothing. Rs. 400 will be a little high. When the land is a waste land, to penalise him by compelling him to fix a high rate of evaluation is not sound or equitable. I, therefore, commend this to the Hon. Minister for consideration.”

* SRI P. RANGASAMI REDDIAR :—“ Mr. Speaker, Sir, sometimes suits are filed even with respect to recovery of possession of vacant sites where hay-stacks are put or cowdung is heaped. A vacant site may be worth only Rs. 20. Under clause 30, a person suing for recovery of possession of that site should pay a court-fee of Rs. 30. The court-fee exceeds the value of the site by Rs. 10. Therefore, I suggest that the words ‘ Rs. 400 whichever is higher ’ may be omitted and that it may be left to the good sense of the litigants to value the properties according to the prevailing market rates.”

* THE HON. SRI C. SUBRAMANIAM :—“ This is a residuary clause. We have already provided for cases of agricultural lands in clause 7 and the other clauses. This clause is with reference to immovable property not covered by any of the previous clauses. That being so, I do not see any justification to show any concession in this matter. Therefore, the fee should be computed on the market value or, as we have fixed a minimum in the case of declaratory suits and injunctions with reference to immovable property, with reference to possession also, there should be a minimum. This won't relate to agricultural property. Therefore, I do not think that the concession in the other clauses to reduce it to Rs. 300 need be shown here.”

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The amendments of Sri Gopalakrishnan were put and lost.

The amendment of Sri Panchaksharam was, by leave, withdrawn.

The amendment of Sri Gopala Gounder was, by leave, withdrawn.

The amendment of Sri P. S. Krishnaswamy Ayyangar was, by leave, withdrawn.

Clause 30 was put and carried.

Clause 31.

MR. SPEAKER :—“ The motion is—

‘ That clause 31 do stand part of the Bill.’ ”

SRI P. K. GOPALAKRISHNAN :—“ Sir, I move the following amendments (129 to 131) :—

‘ Omit the words “ which amount shall in no case be less than rupees four hundred ”.

In line 3, after the words “ computed on ”, insert the words “ one-fourth of ”.

Omit the proviso.’ ”

The amendments were duly seconded.

SRI S. PANCHAKSHARAM :—“ Sir, I move the following amendment (224) :—

‘ For “ four hundred ”, substitute “ one hundred ”.’ ”

The amendment was duly seconded.

SRI V. GOPALA GOUNDER :—“ Sir, I move the following amendment (34) :—

‘ For the words “ four hundred ”, substitute the words “ two hundred ”.’ ”

The amendment was duly seconded.

* SRI K. PARTHASARATHY :—“ Sir, the minimum value of suits relating to easement is fixed at Rs. 400. It is but right that the concession was not extended to the provision contained in the previous clause. But in respect of suits under this clause, I request that the Hon. the Minister for Finance will consent to the minimum value being fixed at Rs. 200 instead of Rs. 300.”

9-50
a.m.

SRI P. RANGASWAMI REDDIAR :—“ Mr. Speaker, suits regarding disputes about channel rights, pathway rights and rights regarding other types of easement such as light, air, etc., are not uncommon in our country. A channel right or a pathway or a right of easement in a common land are all reasonably valued at ten or twenty rupees. Even taking into consideration the market value of the portion of land that would be in dispute, to fix the

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value at Rs. 400 would really be a hardship on the poor people. If the intention of the Government is not to exploit the litigant population resorting to courts of law, this minimum should be omitted. It is common knowledge and it would be clear if the figures in the plaints are scrutinized even at random, that easement rights are valued only at Rs. 10 or Rs. 15 and the court-fee fixed is just Re. 1-2-0 or Rs. 1-14-0. Such disputes are not uncommon and it cannot be said that they are vexatious or frivolous, and that they are intended only to harass parties. Therefore, I plead that either minimum should be reduced or totally dropped."

* SRI V. GOPALA GOUNDER :—" Sir, in view of the large number of suits filed for easement rights and in view of the fact that such suits are always valued at ten or fifteen rupees, it is not fair or justifiable to rank them with suits for property wherein we can fix the value as the market value of the property or so many times the land revenue payable on account of the property. This limit of Rs. 400 is too high. I hope the Hon. the Minister for Finance will agree with the Opposition in this case and reduce the minimum to Rs. 100 from Rs. 400."

* SRI M. NARAYANA KURUP :—" Sir, while I would welcome a reduction in court-fee in respect of any other suits, I will not be sorry if the rate remains the same as is suggested in the clause because these types of cases are most contentions. We are told that rich people and big people are likely to oppress poor people by means of easement suits. Any relief granted in respect of court-fees will not avail. The expenses involved in easement suits are much more in other respects than by way of court-fees. For instance, if a rich man wants to oppress a poor man, he can put the value of the suit at Rs. 10,000 and if he succeeds he can mulct the other party with the whole cost. Still, Sir, inasmuch as suggestions have been made to reduce the limit to Rs. 300, I welcome the reduction."

9-55
a.m. SRI E. T. KUNHAN :—" മിസ്റ്റർ സ്പീക്കർ, സാർ, പൊതുവഴികൾ അടച്ചു തുടിക്കാരെയും ഹരിജനങ്ങളേയും മറ്റും ബുദ്ധിമുട്ടിക്കുന്ന ചില അക്രമികളുണ്ട്. അത്തരം കേസുകൾ നാട്ടിൽ ധാരാളമായെന്നു കാണുന്നു. അക്രമമായി അടച്ച വഴി തുറന്നു തിരിയ്ക്കാനായി കോടതിയിൽ പോകാമെന്നു വെച്ചാൽ വമ്പിച്ച ഫീസ്സാണ് ചുമത്തിയിരിക്കുന്നത്. അതുപോലെതന്നെ നോട്ടുകൾ അടച്ചു തുടിക്കു വെള്ളം കിട്ടാതാകുന്ന ചില ജന്മിമാരുണ്ട്. നോട്ടു അടച്ചുകളഞ്ഞാൽ തുറന്നു തിരിയ്ക്കുന്നതിന് ആക്ഷേപം കൊടുക്കുമ്പോൾ വലിയ ഫീസ്സു വെച്ചാൽ സാധ്യമായ തുകയ്ക്കു കോടതിയിൽ അപേക്ഷ ബോധിപ്പിക്കാനേ സാധ്യമല്ലെന്നു വരും. അതുകൊണ്ട് ഇപ്പോൾ 5 നൂട്ടുകൾക്കുള്ള ഫീസ്സ് ഇന്നു ഏതാലും ചുരുക്കിയതു 30 ക. എന്നുള്ളതു് 15 ക. ആക്കി കുറയ്ക്കണമെന്നാണ് എന്റെ അഭിപ്രായം. ബഹുമാനപ്പെട്ട മെമ്പർ ശ്രീ പി. കെ. ഗോപാലകൃഷ്ണൻ്റെ ഭേദഗതിയെ ആൻ പിൻതാങ്ങുന്നു."

* SRI S. PANCHAKSHARAM :—" Sir, I did not want to intervene but certain remarks made by the hon. Member, Mr. Narayana Kurup, have made my intervention necessary. He says that easement suits are filed only by rich people."

THE HON. SRI C. SUBRAMANIAM :—" He did not say so."

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* SRI S. PANCHAKSHARAM :—“ I am sorry then. The only practical difficulty that confronts poor people in the villages is this. I believe the Hon. the Minister for Finance must be aware of the fact that easement rights with reference to channels alone form the bulk of suits. There are channels which lead from one field to another field. They are not well demarcated channels and they are not also marked in the plans. They are channels which are allowed by one party to the other so that water may flow to other lands as well. Wherever the party is strong, wherever there is a faction, wherever there is a falling out between parties, of course, the stronger or the richer man behaves in a highhanded way; he closes the channels. The poor man is not able to substantiate his case about the existence of the channel because the rich man is able to get any number of witnesses to show that the channel was not there and that his position is correct. The poor man is at a disadvantage. He has to apply to the taluk office for records to show to the court that his land has always been irrigated with some water and the existence of the channel has to be presumed by the court therefrom. This is what happens. The limit of Rs. 400 is too much. It may be reduced to Rs. 200.”

SRI P. K. GOPALAKRISHNAN :—“ Sir, easement rights are very important rights. These rights are often infringed by powerful parties. Those who are less powerful like poor peasants and agricultural labourers will not be able to go to the court if the fee is more than, say, Rs. 30. I hope the Government will show some concession here also.”

* THE HON. SRI C. SUBRAMANIAM :—“ Sir, both sides have argued the provision as far as this clause is concerned. But I am inclined to reduce this four hundred rupees to three hundred rupees in view of the fact that land rights may be involved here. Subject to this concession, I oppose all other amendments. I move—

‘ that in line 4, for the word “ four ” the word “ three ” be substituted.’ ”

MR. SPEAKER :—“ I am going to put the amendments to vote.”

SRI P. K. GOPALAKRISHNAN :—“ I withdraw my amendments.”

The amendments were, by leave of the House, withdrawn.

SRI V. GOPALA GOUNDER :—“ I withdraw my amendment.”

The amendment was, by leave of the House, withdrawn.

SRI S. PANCHAKSHARAM :—“ I withdraw my amendment.”

The amendment was, by leave of the House, withdrawn.

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MR. SPEAKER :—“ The question is—

‘ That in line 4, for the word “ four ” the words “ three ” be substituted.’ ”

The amendment was put and carried.

Clause 31 as amended was put and carried.

Clause 32 was put and carried.

Clause 33.

SRI M. NARAYANA KURUP :—“ Sir, I move (88 and 90)—

‘ After sub-clause (1) and before the Explanation, insert the following proviso :—

“ Provided that the holder of the mortgage shall be entitled to a reduction of the fee which he has paid in respect of the same mortgage in any prior suit or proceeding.”

In sub-clause (3), add at the end the words “ in the application ”. ”

The amendments were duly seconded.

SRI P. K. GOPALAKRISHNAN :—“ Sir, I move (134)—

‘ Omit sub-clause (2).’ ”

The amendment was duly seconded.

SRI P. K. GOPALAKRISHNAN :—“ Sir, I move (134)—

‘ In sub-clause (8), omit the words “ of one-fourth of the principal amount expressed to be secured by the instrument of mortgage, whichever is higher ”. ”

The amendment was duly seconded.

SRI P. S. KRISHNASWAMY AYYANGAR :—“ Sir, I move—

‘ In sub-clause (2), for the words “ in such a suit ”, substitute the words “ in a suit on a mortgage, with a prayer for sale of the mortgaged property ”.

‘ In sub-clause (2), line 4, for the word “ contains ”, substitute the word “ contain ”. (39)

‘ In sub-clause (3), after the words “ a fee computed on the amount claimed by him ”, insert the words “ in addition to the fee payable under Article 11 (g) of Schedule II ”. (40)

‘ In sub-clause (3), add at the end of the first proviso the words “ except that payable under Article 11 (g) of Schedule II ”. (41)

‘ In sub-clause (8), second proviso, for the words “ usufructuary mortgage ”, substitute the words “ usufructuary or anomalous mortgage ”. (43)

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'In sub-clause (8), for the words "expressed to be secured by the instrument of mortgage", substitute the words "secured under the". (51)

'In amendment No. 51, in list No. 1, at the end of the expression "secured under the" add the word "mortgage (290)".'

The amendments were duly seconded.

SRI S. PANCHAKSHARAM:—"Mr. Speaker, Sir, I am moving my amendment No. 226 and not No. 225. Sir, I move—

(226) In sub-clause (8), first proviso, for "no decree shall be . . . is paid", substitute "a decree shall be passed for the amount so ascertained, subject to the payment of the difference in fee between that actually paid and that payable on the same as ascertained within such time as the Court may fix, failing which the suit shall stand dismissed".'

The amendment was duly seconded.

SRI Y. MANJAYA SHETTY:—"Sir, I move—

'For sub-clause (8), substitute the following:—

"(8) In a suit against a mortgagee for redemption of a mortgage fee shall be computed on the principal amount due under the mortgage".'

The amendment was duly seconded.

THE HON. SRI C. SUBRAMANIAM:—"I am straightaway accepting the amendments 39 and 43 of Sri P. S. Krishnaswamy Ayyangar, viz.,

'(39) In sub-clause (2), line 4, for the word "contains", substitute the word "contain".

'(43) In sub-clause (8), second proviso, for the words "usufructuary mortgage", substitute the words "usufructuary or anomalous mortgage".'

MR. SPEAKER:—"The Hon. Minister says that he is accepting amendments Nos. 39 and 43 of Sri P. S. Krishnaswamy Ayyangar.

"Sri M. Narayana Kurup may now speak."

* SRI M. NARAYANA KURUP:—"My amendment No. 90 is only for seeking a clarification. I want to make sure that the fee, computed on the amount claimed in the application alone, is paid. Sub-clause (1) of clause 33 states that in a suit to recover the money due on a mortgage, fee shall be computed on the amount claimed. I am objecting to that. I want that a proviso be added to that sub-clause (1), viz.,

'Provided that the holder of the mortgage shall be entitled to a reduction of the fee which he has paid in respect of the same mortgage in any prior suit or proceeding.'

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That is the purport of my amendment No. 88. In mortgage suits even defendants are asked to pay court-fees. If, for instance, in a case where the plaintiff sues for recovering the money due under mortgage, a subsequent mortgagee is impleaded. There is a sale. The subsequent mortgagee then applies for the surplus amounts due to him. Of course he has to pay court-fees on that. Subsequently the sale is set aside; and he does not get any money. He has to bring a suit subsequently. In such cases there is no provision for the refund of the court-fee he has paid. He should not be asked to pay court-fee. What I want is that the holder of the mortgage shall be entitled to a reduction of the fee which he has paid in respect of the same mortgage in any prior suit or proceeding. That is what my amendment says. Such a proviso is not there for sub-clause (1) of clause 33. There are various other provisions where amounts paid in one proceeding is deducted from the other. There are cases in which the holder of a mortgage has paid court-fee in respect of the same mortgage in subsequent proceedings. In such cases it is but right that he should be entitled to a reduction of the fee which he has paid in respect of the same mortgage in prior suit or proceeding."

SRI S. PANCHAKSHARAM :—" Sub-clause (8) of clause 33 states :

" In a suit against a mortgagee for redemption of a mortgage, fee shall be computed on the amount due on the mortgage as stated in the plaint or on one-fourth of the principal amount expressed to be secured by the instrument of mortgage, whichever is higher. "

So far as the above sub-clause is concerned I have no grievance. But the first proviso to sub-clause (8) of clause 33 says :

" Provided that, where the amount due on the mortgage is found to be more than the amount on which fee has been paid by the plaintiff, no decree shall be passed until the deficit fee is paid. "

That is what the first proviso states. Supposing the court finds that something more is due than for which the court-fee has been ordered and if the plaintiff is asked to pay the additional court-fee and the plaintiff does not pay, what is to happen? There will be a stalemate. Therefore I suggest that :

" In sub-clause (8), first proviso, for the words ' no decree shall be passed ' substitute the words ' a decree shall be passed for the amount so ascertained, subject to the payment of the difference in fee between that actually paid and that payable on the same ascertained within such time as the court may fix, failing which the suit shall stand dismissed. ' "

Otherwise there will be difficulty, as I said earlier. There will be a stalemate and no decree can be passed if the court-fee has not been paid."

SRI P. K. GOPALAKRISHNAN :—" Previously no court-fee was levied on written statement. In these cases the owner of the prior mortgage is brought into the court and he is asked to pay court-fee on the written statement. Previously he would never again come to the court unless he had been brought to the court

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by a subsequent mortgage. It is only fair that he is not asked to pay any court-fee in these cases. That is why I have moved my amendment to omit sub-clause (2) of clause 33."

* SRI Y. MANJAYA SHETTY :—" The court-fee is collected in redemption suits on the amount mentioned in the mortgage deed, that is, the principal amount. But according to sub-clause (8) of clause 33 it is suggested that court-fee is to be calculated on the entire amount found to be due as per the decree of the court in such suits. This may cause great hardship. Under sub-clause (8) of clause 33 it is said :

'In a suit against a mortgage for redemption of a mortgage, fee shall be computed on the amount due on the mortgage as stated in the plaint or on one-fourth of the principal amount expressed to be secured by the instrument of mortgage whichever is higher.'

It is stated that the fee should be collected as per the amounts stated in the plaint. This may be favourable in case of mortgages which is liable to be scaled down. But the Madras Agriculturists' Debt Relief (Amendment) Act of 1948 is not applicable to South Kanara and a few taluks of Malabar. There is no provision for the scaling down of the debts due under usufructuary mortgages in that area. As such the mortgagor who filed the suit in South Kanara district or in the few taluks of Malabar, which are excluded from the operation of the Act, might have to pay court-fee on the principal amount of the mortgage and also he has to pay the court-fee on other amounts found to be due by the court such as the value of improvements, the increased assessment and such other things. As such he is liable to pay a court-fee more than what he is liable to pay at present. This may cause hardship to him. Apart from that the mortgagor does not generally get the cost of his suit for redemption. The court does not award the cost of the suit. So he cannot be made liable to pay some more court-fee because he does not get the cost in mortgage suits. As such I have moved my amendment and I hope Government will consider and at least apply that amendment to South Kanara and also the few taluks of Malabar where the Madras Agriculturists' Debt Relief (Amendment) Act of 1948 does not apply."

* SRI P. S. KRISHNASWAMY AYYANGAR :—" Clause 33 relates to suits relating to mortgages. Sub-clause (1) deals with suits to recover the money due on a mortgage. Suits for recovery of money due on a mortgage may be of two kinds. In one there may be the prayer for the sale of the mortgaged property. In the other the plaintiff may abandon the security and only pray for a decree for money only. Even though he prays merely for a decree for money, it is all the same a suit to recover the money due on the mortgage. Sub-clause (1) simply talks of a suit to recover the money due on a mortgage. But it may include a prayer for sale of the mortgaged property or the plaintiff may abandon the security. It might merely contain a prayer for recovery of money. If he wants to benefit by the security also, he may include a prayer for the sale of the mortgaged property. Sub-clause (1) refers

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a.m.

specifically to suits for recovery of money in general terms. Such a suit may be a suit to recover money without security being added on for realizing the mortgaged amount or it may include a prayer for sale of the security. The meaning is not clear. The first sub-clause, viz., sub-clause (1) does not specifically state whether it will be a suit for recovery of money merely as money or based on the security of the property mortgaged. To make the point clear, I have given notice of my amendment. My amendment seeks to substitute the words 'in a suit on a mortgage, with a prayer for sale of the mortgaged property' in the place of the words 'in such a suit'. A suit on a mortgage may be for mere recovery of money. A prayer for sale of the mortgaged property must also be added. To make the position clear I have moved this amendment.

"Now coming to my other amendment for inserting the words 'in addition to the fee payable under Article 11 (g) of Schedule II' in sub-clause (3) it is stated, '... such holder of the prior or subsequent mortgage or charge shall pay on his application a fee computed on the amount claimed by him.' Sir, there is a provision for payment of court-fee under Article 11 (g) of Schedule II. In this sub-clause (3) it is simply stated that court-fee will be computed on the amount claimed by him. Is it sufficient if he pays court-fee on the amount claimed by him? Suppose he does not claim any amount at all? There will be difficulty in such cases. Suppose there are already some other proceedings and by virtue of the same he is not to claim any amount at all. When such a person files an application and when no amount is due to him, is he to affix stamps to his application? We have to consider this question also. In such cases we must make it clear that court-fee will be leviable on the amount claimed by him under this sub-clause and also under Article 11 (g) of Schedule II. It is for this purpose I have moved my amendment, Sir. It is for the same reason I have moved an amendment to the first proviso to this sub-clause for the addition of the words 'except that payable under Article 11 (g) of Schedule II'.

"Sir, the second proviso to this sub-clause reads :

"Provided further that, where the holder of the mortgage or charge, not being a party to the suit in which the sale is held, has paid a fee in any other proceeding on the claim to which his application relates, credit shall be given for the fee paid by him in such other proceeding."

Even in such cases, when he claims some amount he has to file an application and in doing so, is he to affix court-fee stamps or not? We have to make the position clear. I suggest that we may say, 'Credit shall be given for the fee paid by him in such other proceeding except that payable under Article 11 (g) of Schedule II'.

"Sir, sub-clause (8) states :

"In a suit against a mortgagee for redemption of a mortgage, fee shall be computed on the amount due on the mortgage as stated in the plaint or on one-fourth of the principal amount expressed to be secured by the instrument of mortgage."

31st March 1955] [Sri P .S. Krishnaswamy Ayyangar]

It is taken for granted that every mortgage can be brought about only through a deed. We have got mortgages by deposit of title deeds. In such cases, no mortgage deed as such will be there. It is not as if mortgages will always be evidenced by deeds. Again, there may be oral mortgage sometimes. The present wording, 'expressed to be secured by the instrument of mortgage' is not correct. It is better we substitute those words by the words 'secured under the mortgage'. No doubt the present wording adopted in this clause is found in the existing Act. But, it does not mean that we should repeat the same mistake in the new Act also. We now seek to correct the mistakes found in the old Act. So, we have to incorporate correct provisions in this regard. As I said previously, all mortgages are not brought about by means of deeds. There are mortgages by deposit of title deeds, i.e., there are equitable mortgages. There are also oral mortgages in cases where the amount involved is below Rs. 100. In such cases there will be no deeds at all. To cover such cases also and to make the position clear with reference to such cases, I have moved my amendment and hope that the Hon. the Minister for Law will find it possible to accept the same."

* THE HON. SRI C. SUBRAMANIAM :—“ Mr. Speaker, I have already stated that I will be accepting two amendments moved by the hon. Member Sri Krishnaswamy Ayyangar. I am now prepared to accept a third amendment of his to sub-clause (8) for substituting the words 'secured under the mortgage' for the words 'expressed to be secured by the instrument of mortgage'. Even when he began to speak, I was about to say that I am prepared to accept the amendment. But the hon. Member has not yielded. With reference to the other amendments moved by the hon. Member and other hon. Members, I may say that I have considered all of them very carefully but I find that they are unnecessary and so cannot be accepted.

“ Hon. Member Sri Gopalakrishnan said that a mortgagee will be unnecessary dragged into the picture and will be asked to pay court-fee. He is not always asked to pay court-fee. He is asked to pay the fee only in certain circumstances. Only when he prays in his written statement that the amount due on his mortgage or charge be determined and that the decree contains a direction for the payment of such amount to him, fee shall be payable on the written statement computed on the amount claimed. If he keeps quiet and does not want any relief he will not be asked to pay anything. So, sub-clause (2) need not be omitted.

“ Sir, I am unable to accept the amendment moved by Sri Krishnaswami Ayyangar for the substitution of the words “in a suit on a mortgage with a prayer for sale of the mortgaged property' as the present provisions are already clear.

“ As for Mr. Narayana Kurup's amendment, I may state that when the sale is set aside, the entire thing will be set aside. I

[Sri C. Subramaniam] [31st March 1955]

think the question of payment will arise only after the sale is confirmed. I do not think it will arise even before the sale is confirmed. So, there is no question of paying the court-fee at one stage and later on its becoming infructuous. Under these circumstances there is no necessity for accepting the amendment moved by the hon. Member.

“ Sir, I have to oppose all other amendments.”

2-00
a.m.

* SRI M. NARAYANA KURUP :—“ Sir, after 30 days of course many persons are entitled to put in petitions to set aside sale. But supposing in the meanwhile he has to pay court-fee along with application, that is the whole trouble. If he has applied saying that he may be a subsequent mortgagee, he must immediately along with it pay Rs. 7-8-0. In such a case the sale is set aside and if he has to pay, what is the remedy? ”

* THE HON. SRI C. SUBRAMANIAM :—“ He need not apply at that stage. If all the previous mortgagee's claims are satisfied and if any amount is left behind then only he becomes entitled to the money. At that stage he can always apply. He need not apply even before the sale is confirmed and there is money available for distribution. I do not think it is necessary to provide for such a contingency.”

(2)* SRI P. S. KRISHNASWAMY AYYANGAR :—“ In such a case no doubt, the plaintiff may bring a suit for recovery of the mortgage amount with a prayer for bringing the mortgaged property for sale. Later on in the middle of the suit, he may withdraw the claim for enforcing the security and he may confine himself to a mere money decree. In such cases it would not be a suit with a prayer added on for the sale of the mortgaged property. It should continue to be such a suit till it is finally decided. Therefore for clearness sake, and for removing any ambiguities, it is better that my amendments are considered sympathetically.”

The amendments of Sri M. Narayana Kurup (Nos. 88 and 90) were by leave of the House withdrawn.

MR. SPEAKER :—“ Is the hon. Member Sri Panchaksharam Chettiar withdrawing his amendment (No. 226)? ”

(The hon. Member was heard to say, he was withdrawing, from the Officials' gallery.)

MR. SPEAKER :—“ No, no. The hon. Member should reply from his place. I will take it that the hon. Member is not in his seat and therefore treat the amendments as having been withdrawn.

“ Then, I want to know from the Government which of the amendments given notice of by the hon. Sri Krishnaswami Ayyangar, they are accepting.”

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* THE HON. SRI C. SUBRAMANIAM :—“ I have already said, Sir, Government are accepting amendment Nos. 39, 43 and 51.”

MR. SPEAKER :—“ Is the hon. Member withdrawing the other amendments? ”

SRI P. S. KRISHNASWAMY AYYANGAR :—“ I am gladly withdrawing all the amendments not accepted by the Government.”

Amendment Nos. 38, 40, 41 and 290 were by leave of the House withdrawn.

The amendment of Sri Gopalakrishnan (No. 134) and the amendment of Sri Y. Manjappa Shetty (No. 101) were by leave of the House withdrawn.

MR. SPEAKER :—“ The question is—

‘ In sub-clause (2), line 4, for the word “ contains ”, *substitute* the word “ contain ”.’ ”

The amendment was put and carried.

MR. SPEAKER :—“ The question is—

‘ In sub-clause (8), second proviso, for the words “ usufructuary mortgage ”, *substitute* the words “ usufructuary or anomalous mortgage ”.’ ”

The amendment was put and carried.

MR. SPEAKER :—“ The question is—

‘ In sub-clause (8), for the words “ expressed to be secured by the instrument of mortgage ”, *substitute* the words “ secured under the mortgage ”.’ ”

The amendment was put and carried.

Clause 33 as amended was put and carried.

MR. SPEAKER :—“ Motion moved—

‘ that clause 34 do stand part of the Bill.’

“ The hon. Member Sri V. R. Krishna Ayyar has given notice of an amendment to omit the clause. He need not move the amendment. He can oppose the clause.”

SRI V. R. KRISHNA AYYAR :—“ I do not want to take much time at all in respect of this matter. I want only to bring to the notice of the Government and this House that this is a new departure from the previous law made on the subject, which is unwarranted somewhat. Both under the general law and in the Civil Procedure Code, *kanam* is treated as mortgage. For procedural purposes it is treated on a par with the mortgage when a suit for redemption is brought, and court-fee is levied as on a mortgage.

[Sri V. R. Krishna Ayyar] [31st March 1955]

What is sought to be done now is to increase the court-fee. He has to pay extra court-fee for the relief asked for. It is something like anomalous mortgage where possession is also sought to be recovered on redemption and as in the case of possessory mortgage, possession is given to the mortgagor. Nothing special is done when the redemption of the kanam takes place. Therefore, so far as sub-clause (1) is concerned, the extra payment asked for is unnecessary. It is something like asking for extra payment for relief possession in the case of ordinary possessory mortgage. That is not necessary. Regarding sub-clause (2) also the extra payment is sought to be made which is not the existing law where suit for arrears, melvaram rent or damages to land are sought to be recovered. We can leave all these sub-clauses. Even clause 34 can be omitted as kanams are being treated up till now as possessory mortgages under law of procedure and substantive law. But now under this clause we are making a departure. We should remember we are dealing with agrarian cases, namely, action for redemption by a landlord against a tenant. It may be said that it is the landlord that has to pay. But in all these matters there may be difficulties caused to the tenants. If he raises the contention of misconduct and it is found against the tenant, he may be asked to pay the costs. I therefore suggest that the matter of kanam may be dealt with on a par with other possessory mortgages."

* THE HON. SRI C. SUBRAMANIAM :—" Sir, I do not claim to have such detailed knowledge with regard to the Malabar Tenancy Act. I am however advised that the clause as it stands is quite alright. Therefore I do not intend deleting it."

SRI C. H. KANARAN :—" മിസ്റ്റർ സ്പീക്കർ, സാർ, ക്ലോസ്ഡ് കോർട്ട് മോർഗ്ഗേജ്, അതിനോടു മിച്ചവാരവും പാട്ടവും മറ്റു ചിലതു കൂട്ടിച്ചേർത്തു ഫീസ്സ് വസൂലാക്കാനുള്ള ഒരു വകുപ്പാണിത്. ഒരു ചെറുപ്പത്തെ പാട്ടസംവൃത്തി ചെയ്തു കണക്കാക്കി കോട്ട് ഫീസ്സ് വേർതിട്ടിരിക്കാനുള്ള ഒരു ശ്രമമാണ് ഇവിടെ കാണുന്നത്. ഇതു നീതിയല്ല, ക്ലോസ്ഡ് കോർട്ട് മോർഗ്ഗേജ് അതിനു മാത്രമേ ഫീസ്സ് ഈടാക്കാവൂ. അതിന് വേണ്ടുന്ന വകുപ്പുകൾ ഈ ബില്ലിലുണ്ട്. സാധാരണ നിലയിൽ ക്ലോസ്ഡ് കോർട്ട് മോർഗ്ഗേജ് ഫീസ്സ് ചുമത്തി യാർ മതിയാകും. ഇങ്ങനെ ഒരു പ്രത്യേക വകുപ്പുവെക്കുന്ന ആവശ്യമില്ല."

* THE HON. SRI C. SUBRAMANIAM :—" The point for consideration is this. Do you want that to be considered as a mere mortgage or tenancy also involved in it? The Malabar Tenancy Act proceeds on the basis that it is a tenancy. Therefore we cannot have it both ways. That is why after full consideration they have treated it in two ways one for redemption and another for ejection on the basis of tenancy."

Clause 34 was put and carried.

MR. SPEAKER :—" Motion moved—

'that clause 35 do stand part of the Bill.' "

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SRI N. MOUNAGURUSWAMI NAIDU :—" Mr. Speaker, Sir, I move the amendments standing in my name (227 to 230), namely :—

- ' (1) In sub-clauses (1) and (2), for " *estimated* ", substitute " *valued* ".
- ' (2) In sub-clause (1), after " *for accounts* ", insert, " *or for dissolution of partnership and accounts or for accounts of a dissolved firm* ".
- ' (3) In sub-clause (2), for " *no decree directing payment . . . extends* ", substitute " *a decree shall be passed for the amount so ascertained, subject to the payment of the difference in fee, between that actually paid and that payable on the sum so ascertained within such time as the court may fix, failing which the decree shall be limited to the amount on which fee has been paid in the plaint* ".
- ' (4) For sub-clause (3), substitute the following :—
 " (3) A decree shall be passed in favour of the defendant, if in any such suit it is found that money is payable to him by the plaintiff, subject to the condition of payment of the court-fee due on the amount of the decree before execution." "

* SRI S. PANCHAKSHARAM :—" I second the amendments. Sir."

" Sir, ' *estimated* ' is the word used in clause 35. For the purpose of computing the court-fees, I believe the word ' *valued* ' would be much better. That is what I want to say with reference to amendment No. 227.

10-30
a.m.

" Amendment No. 228 seeks to insert the words ' *or for dissolution of partnership and accounts or for accounts of a dissolved firm* ' after the words ' *for accounts* '. I think that suits for dissolution of partnership and suits for accounts may be clubbed together.

" With reference to amendment No. 229, it reads : ' In sub-clause (2), for " *no decree directing payment . . . extends* ", substitute " *a decree shall be passed for the amount so ascertained, subject to the payment of the difference in fee, between that actually paid and that payable on the sum so ascertained within such time as the court may fix, failing which the decree shall be limited to the amount on which fee has been paid in the plaint.* " ' It is there already and I am not very particular about this amendment.

" I am very much particular about the next amendment, viz., No. 230. Clause 35 (3), as it is, says : ' Where in any such suit it is found that any amount is payable to the defendant, no decree shall be passed in his favour until he pays the fee due on the amount.' That means that if in a partnership suit or suit for accounts, a judgment is to be delivered in favour of the defendant

[Sri S. Panchaksharam] [31st March 1955]

with reference to a particular sum payable by the plaintiff to the defendant, then the judgment has to be disclosed beforehand and time has to be given to the defendant for payment of the court-fee. That is a position which cannot be envisaged at all by any court of law. If the Hon. the Finance Minister does not accept my amendment, I would request him to make necessary amendments so as to see that the delivery of the judgment is simultaneous and synchronizes with the payment of the court-fee that the defendant has got to pay."

(Deputy Speaker occupied the Chair.)

* THE HON. SRI C. SUBRAMANIAM :—" Sir, the next clause (clause 36) deals with suits for dissolution of partnership. There is no necessity to club those suits with suits for accounts. The clause says that no decree shall be passed in favour of the defendant until he pays the fee due on the amount. The judgment itself will say that on payment of such and such amount the decree will be passed. I do not think there will be any difficulty. In my opinion, it is not necessary to accept the amendment to sub-clause (3). As for the other point raised by the hon. Member, I think 'estimated' will be the proper word here. The suit cannot be properly valued until the accounts are completely taken. So it is not proper to say 'valued'."

The amendments of the hon. Member Sri N. Mounaguruswami Naidu (Nos. 227 to 230) were, by leave of the House, withdrawn.

Clause 35 was put and carried.

Clause 36.

(Mr. Speaker resumed the Chair.)

MR. SPEAKER :—" The motion is—

'that clause 36 do stand part of the Bill.'"

SRI V. R. KRISHNA AYYAR :—" Sir, I move the amendment standing in my name—

'After sub-clause (3) insert the following Explanation :—

"Explanation: Value of debts or other claims due to a partnership shall be the actual value if auctioned publicly.""

The amendment was duly seconded.

MR. SPEAKER :—" Amendment moved—

'After sub-clause (3), insert the following Explanation :—

"Explanation.—Value of debts or other claims due to a partnership shall be the actual value if auctioned publicly.'

"As there is no other amendment, the hon. Member Sri Krishna Ayyar can speak on his amendment.""

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SRI V. R. KRISHNA AYYAR :—“ Sir, the clause itself deals with dissolution of partnership. Oftentimes, one of the items of asset of a partnership may be outstandings due to the partnership and there may be bad debts. Some of the book debts may not have any value at all if auctioned. They may be irrecoverable. Their face value should not be treated as the value in computing the plaintiff's share. It may be said that value means actual value and not necessarily face value. But to make it clear, I have stated ‘ the value of debts or other claims due to a partnership shall be the actual value if auctioned publicly ’. Generally a Receiver is appointed and he auctions and what is recovered is distributed. I have made the position clear lest there should be any misapprehension in the payment of court-fee. Suppose there is a debt of Rs. 10,000 due to a partnership and court-fee is recovered on that. Ultimately it will be found that the man may be a pauper and nothing can be recovered from him. That is why I say that it should not be computed on the face value.”

* THE HON. SRI C. SUBRAMANIAM :—“ Sir, I cannot understand the meaning of the amendment. If the outstandings are to be auctioned, when is the auction to be held, when is the valuation to be made and when is the decree to be passed? It will lead to all sorts of complications. I am sorry I am unable to accept this amendment.”

The amendment of the hon. Member Sri V. R. Krishna Ayyar was, by leave of the House, withdrawn.

MR. SPEAKER :—“ The question is—

‘ that clause 36 do stand part of the Bill.’ ”

The motion was carried.

Clause 37.

MR. SPEAKER :—“ The motion is—

‘ That clause 37 do stand part of the Bill.’ ”

There are a number of amendments to this clause. The hon. Members who have given notice of amendments to this clause may move their amendments.”

SRI P. K. GOPALAKRISHNAN :—“ Sir, I move amendments Nos. 135 to 139—

‘ Omit sub-clause (1).

In sub-clause (2), line 3, after the words “ joint possession of property ”, insert the words “ or who has been excluded from possession of such property ”.

In sub-clause (2), item (i), for the word “ thirty ”, substitute the word “ fifteen ”.

[Sri P. K. Gopalakrishnan] [31st March 1955]

Omit the words "on half the market value of his share of" occurring in sub-clause (3).

In sub-clause (3), line 5, for the words "according as", substitute the word "whether".

The amendments were duly seconded.

SRI N. MOUNAGURUSWAMI NAIDU :—"Sir, I move amendments Nos. 232 to 236 :

'In sub-clause (1), after "by a plaintiff who," insert "is in joint possession or who".

Omit sub-clause (2).

Renumber sub-clause (3) into sub-clause (2) and omit "or sub-section (2)".

In sub-clause (3) omit "half" and "at half the rates . . . or is in joint possession".

Renumber sub-clause (4) as sub-clause (3) and omit "or sub-section (2)".

All the amendments were duly seconded.

SRI M. NARAYANA KURUP :—"Sir, I move—

'For the existing rates of fees under sub-clause (2), substitute the following :—

"When a plaint is presented to—

(i) a District Munsif's Court .. Rupees thirty.

(ii) the City Civil Court, Madras Rupees thirty if the
or a Sub-Court or a District Court. value of plaintiff's
share is Rs. 5,000 or
less.

Rupees hundred if the
value is above
Rs. 5,000 but below
Rs. 10,000; and

Rupees two hundred if
the value is above
Rs. 10,000.

(iii) the High Court Rupees three
hundred."

The amendment was duly seconded.

MR. SPEAKER :—"The hon. Member Sri Gopala Gounder is not in his place. His amendment is not moved."

SRI Y. MANJAYYA SHETTY :—"Sir, I am not moving the amendment standing in my name, viz., No. 102."

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SRI P. S. KRISHNASWAMY AYYANGAR :—“ Sir, I move amendments Nos. 54 to 56 standing in my name :—

‘ In sub-clause (3), for the words “ the defendant ” occurring in line 2, substitute the words “ a defendant ”.

In sub-clause (3), for the words “ on the written ” occurring in line 3, substitute the words “ on his written statement ”.

In sub-clause (3), line 5, for the words “ as the defendant ”, substitute the words “ as such defendant ”. ”

The amendments were duly seconded.

MR. SPEAKER :—“ The clause and the amendments are before the House.”

* SRI M. NARAYANA KURUP :—“ Sir, I believe that my amendment will be acceptable to the Government. It does not introduce any radical change except a slight modification of introducing one more slab. The clause relates to partition suits and of course they include a large class of suits. Where the defendant claims partition and separate possession of his share of the property, he must pay court-fees computed on half the market value of his share. First of all, we must understand that the fee is not computed on the basis of the courts in which they are instituted. When the plaint is presented in a District Munsif's Court, the fee is Rs. 30. The pecuniary jurisdiction of a Munsif's Court is Rs. 3,000 now. In the other cases, that is, when the plaint is presented to a Sub-Court or District Court, if the value is Rs. 5,000 or less, the court-fee payable is only Rs. 30. If the value is above Rs. 5,000, then there is a sudden jump to Rs. 200. I want a new slab to be added, viz., if the value is above Rs. 5,000 and below Rs. 10,000, then the court-fee payable must be Rs. 100. This will be helpful in a large number of cases. I would not have brought this amendment based on courts, but looking into the clause, I find that there is no logic in the classification made. My amendment is an equitable one. If it is not accepted, the rise will be very steep. I hope the Hon. the Finance Minister will find it possible to accept it.”

* SRI C. H. KANARAN :—“ മിസ്റ്റർ സ്പീക്കർ, സർ, ബഹുമാനപ്പെട്ട് മെമ്പർ ശ്രീ പി. കെ. ഗോപാലകൃഷ്ണൻ അവതരിപ്പിച്ചിട്ടുള്ള എല്ലാ ഭേദഗതികളേയും ഞാൻ പിൻതാങ്ങുന്നു. ഈ സന്ദർഭത്തിൽ നാലു പ്രധാന കാര്യങ്ങളാണ് എനിക്ക് പറയാനുള്ളത് : ഒന്നാമത് കൂട്ടുകൈവശമായാലും അല്ലെങ്കിലും ഒരു പ്രത്യേകത കല്പിക്കേണ്ട ആവശ്യമില്ല. സാധാരണഗതിയിൽ സ്വത്തവകാശത്തെക്കുറിച്ചും കണക്കിലെടുത്തുകൊണ്ട് ഫീസ്സ് ചുമത്തുകയെന്നല്ലാതെ ഇവിടെ കല്പിച്ചിരിക്കുന്നമാതിരി കൂട്ടവകാശത്തെ സംബന്ധിച്ചിടത്തോളം ഒരു പ്രത്യേക വ്യവസ്ഥ ആവശ്യമില്ല. രണ്ടാമത് പ്രതികാര അവകാശം പുറപ്പെടുവിക്കുമ്പോൾ അവരിൽനിന്നും ഫീസ്സ് ഈടാക്കണമെന്ന പരമ്പരയായിരുന്നു. സാത്തിന്റെ ആകെ വില ആദ്യമേ കണക്കാക്കി ഫീസ്സ് ഈടാക്കേണ്ടത്. അതുകൊണ്ട് രണ്ടാമതും പ്രതികരിച്ചിട്ടില്ലാത്ത ഫീസ്സ് വസൂൽ ചെയ്യുന്നതു ശരിയല്ല. മൂന്നാമത് ഒരാൾക്കു അവകാശപ്പെട്ട ഭാഗവിലുടെ മാർക്കറ്റിലെ കണക്കാക്കി ഫീസ്സ് ഈടാക്കണമെന്നുള്ളതും സീക്വണ്ടായ ഒരു സമ്പ്രദായമല്ല. തുകയ്ക്ക് ഒരു ക്ലിപ്തമുണ്ടായിരിക്കണം. നാലാമത് കുറഞ്ഞ ഫീസ്സ് 30 ക, എന്ന വച്ചിരിക്കുന്നത് ചെറിയ കടംബ

[Sri C. H. Kanaran]

[31st March 1955]

ഞാളിലെ ആളുകൾക്ക് വലിയ ബുദ്ധിമുട്ടിന്നു കാരണമാകും. വലിയ വലിയ കുടുംബങ്ങളിൽ നടക്കുമ്പോൾ മദ്ധ്യസ്ഥന്മാർ മുഖേന ഒത്തുതീർപ്പിലെത്തി ഭാഗം നടത്തുകയാണ് പതിവ്. ചെറിയ കുടുംബങ്ങളിലെ ആളുകളാണ് അധികവും കോടതികളിലേക്ക് പോയി ഭാഗം കഴിക്കുന്നത്. വെറും ആയിരമോ രണ്ടായിരമോ ഉറപ്പിക വില്പനയെന്ന സാത്തുക്കൾ മാത്രമുള്ള കുടുംബങ്ങളാണ്. അതു ഭാഗിക്കുന്നതിന്നു ഒരു ഹർജി കൊടുക്കാൻ 30 ക. വേണമെന്നുവന്നാൽ സാധ്യതയായ ആളുകൾ വളരെ ബുദ്ധിമുട്ടും. ഈ നാലു കാരണങ്ങളാലാണ് ശ്രീ പി. കെ. ഗോപാലകൃഷ്ണൻ ഭേദഗതികളെ ഞാൻ പിന്താങ്ങുന്നത്. ഈ ഭേദഗതികൾ ഗവണ്മെന്റ് സ്വീകരിക്കുമെന്ന് വിശ്വസിക്കുന്നു."

10-40
a.m.

* SRI P. K. GOPALAKRISHNAN :—" Sir, in partition of family properties, there is a social problem also involved. The partition of big family properties is a progressive step and I think the Government should extend all help in the matter of partitioning of big family properties. For that, the court-fee payable must be reduced. At present, the fee levied for partition, if a suit is filed in the District Munsif's Court, is Rs. 15. But this has been raised to Rs. 30 as per the provisions contained in sub-clause (2) of clause 37. A defendant who claims partition and separate possession is also asked as per the provisions of sub-clause 3 of clause 37 to pay a court-fee computed on half the market value of his share. This provision is also unwarranted. Sir, I request that the amendments I have given notice of to this clause may be accepted."

SRI V. R. KRISHNA AYYAR :—" Sir, I was just suggesting a verbal amendment to the Hon. the Minister for Law. In Article 17-B to Schedule II of the existing Act, there are two categories for partition, one relating to partitioning of joint family properties where the plaintiff is in joint possession of the properties and the other relating to cases where the plaintiff is not in joint possession of all or any of the common properties. The language used in clause 37 (1) is as follows: 'In a suit . . . by a plaintiff who has been excluded from possession of such property . . .' I should like to ask whether it would not be advisable to bring the meaning of this clause more clearly by saying 'In a suit . . . by a plaintiff who is not in joint possession . . .' We must make the meaning clear by saying that the man who is not in joint possession is excluded. Exclusion means wilful exclusion or deliberate exclusion. Suppose a man goes to Singapore and he may not have received any profits at all. In such cases, this provision should not be applied."

"In support of the amendment moved by hon. Member Sri M. Narayana Kurup, I wish to state that under Article 17-A to Schedule II of the existing Act, the fee charged is Rs. 100 if the value is less than Rs. 10,000 and Rs. 500 if such value is ten thousand rupees or upwards. I have no objection to have another slab."

* THE HON. SRI C. SUBRAMANIAM :—" Sir, I am accepting all the amendments (Nos. 54, 55 and 56) moved by hon. Member Sri P. S. Krishnaswami Ayyangar. Therefore there is no need for him to speak on the amendments."

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"In dealing with this clause, we have to take into consideration the fact that the pecuniary jurisdiction of the District Munsif's Court at present is Rs. 3,000. The Government are now intending to bring forward a Bill to increase it to Rs. 5,000 and when this Bill is given effect to, it would really mean that the Court-fee charged up to Rs. 5,000 would be Rs. 30, if a case is instituted in a District Munsif's Court and the Court-fee charged would be Rs. 200 if a case is instituted in a Sub-Court. That is why it is necessary to have item (ii) of sub-clause (2) as it is. The City Civil Court at Madras is at present exercising the jurisdiction of the District Munsif's Court also. There are certain Sub-Courts which exercise the jurisdiction of the District Munsif's Court also. The Sub-Court at the Nilgiris is one such. That is why, it has been stated in item (ii) of sub-clause (2) as follows :

- ' (ii) The City Civil Court, Madras, or a Sub-Court or a District Court. Rupees thirty if the value of the plaintiff's share is Rs. 5,000 or less and Rs. 200 if it is above 5,000.'

"If the hon. Member wants another slab for suits if the value is above Rs. 5,000, I have no objection to having one and Rs. 500 or Rs. 300 may be charged as the court-fee."

* SRI N. MOUNAGURUSWAMI NAIDU :—"According to sub-clause (3) a defendant who claims partition has got to pay a fee which shall be computed on half the market value of his share. On the other hand, Sir, the plaintiff, according to this clause has got to pay the court-fee computed on the full market value of his share. I wish to know why this kind of distinction is made between the plaintiff and the defendant."

* SRI M. NARAYANA KURUP :—"Sir, we are only bargaining for lessening the hardships caused to poor people. We all know that the Hon. Minister will be glad to accept any proposal which would fetch a higher income to the Government. But my point is this. The Hon. the Minister was saying that he was bringing forward a Bill to extend the pecuniary jurisdiction of the District Munsif Courts to Rs. 5,000. Suppose, Sir, some time hence the Hon. Minister brings forward another measure extending the jurisdiction of the District Munsif Courts from Rs. 5,000 to Rs. 6,000. In that case, even when the jurisdiction is extended to Rs. 6,000, the court-fee payable will still be only Rs. 30 . . ."

THE HON. SRI C. SUBRAMANIAM :—"In that case, I will bring an amending Bill to the present measure also."

* SRI M. NARAYANA KURUP :—"Sir, I am only arguing a hypothetical case. I can say that the amendment I have given notice of is a reasonable one and it is for the Hon. Minister to accept it."

* SRI Y. MANJAYA SHETTY :—"The Hon. Minister stated that the pecuniary jurisdiction of the District Munsif's Courts would be increased to Rs. 5,000. I wish to know whether this would be done soon after this Bill is passed into law."

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SRI V. R. KRISHNA AYYAR :—“ I wish to say only one word, Sir, for consideration by the Hon. the Minister for Finance. At present, a fee of Rs. 100 is charged if the value for purposes of jurisdiction is less than Rs. 10,000. I would suggest, Sir, that if the value for purposes of jurisdiction is between Rs. 5,000 and Rs. 10,000, a fee of Rs. 100 may be levied, and, if the Hon. Minister wants, that for suits whose value is above Rs. 10,000 and for suits filed in the High Court the Government can levy a fee of Rs. 300.”

*** THE HON. SRI C. SUBRAMANIAM :—**“ Sir, I do not think I can accept the suggestion of the hon. Member. The hon. Member is aware of the fact that we intend to increase the jurisdiction of the City Civil Court from Rs. 10,000 to Rs. 50,000. That means, Sir, suits whose value is over Rs. 50,000 can be filed in the High Court. If the suggestion of the hon. Member is that for suits whose value is over Rs 10,000 only Rs. 300 can be levied as court-fee only Rs. 300 can be levied for all suits filed in the High Court. Therefore, I would rather be prepared to accept the amendment moved by hon. Member Sri M. Narayana Kurup.”

10-50 a.m. The amendments of Sri P. K. Gopalakrishnan (Nos. 135 to 139) were put and lost.

The amendments of Sri Mounaguruswami Naidu (Nos. 233, 234, 235 and 236, were by leave of the House, withdrawn.

MR. SPEAKER :—“ The question is—

For the existing rates of fees under sub-clause (2), substitute the following :—

“ When the plaint is presented to—

(i) a District Munsif's Court .. Rupees thirty.

(ii) the City Civil Court, Madras, Rupees thirty if the
or a Sub-Court or a District value of plaintiff's
Court; share is Rs. 5,000
or less ;

Rupees hundred if the
value is above
Rs. 5,000 but below
Rs. 10,000 ; and
Rupees two hundred
if the value is
above Rs. 10,000.

(iii) the High Court .. Rupees three
hundred.” ”

*** THE HON. SRI C. SUBRAMANIAM :—**“ I am accepting this amendment. But it requires a slight verbal change. I therefore move—

‘ In item three of section (i) of the above amendment, for the words “ above Rs. 10,000 ”, substitute the words “ Rs. 10,000 and above ”.’

Because, as it is, it does not cover where the value is Rs. 10,000.”

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MR. SPEAKER :—" The question is—

' In item three of section (ii) of the above amendment, for the words " above Rs. 10,000 ", substitute the words " Rs. 10,000 and above ".' "

The motion was carried.

MR. SPEAKER :—" I will now put the amendment of Sri Kurup as amended by the Government amendment. The question is—

' For the existing rates of fees under sub-clause (2), substitute the following :—

" When the plaint is presented to—

(i) a District Munsif's Court .. Rupees thirty.

(ii) the City Civil Court, Madras, Rupees thirty if the
or a Sub-Court or a Dis- value of plaintiff's
trict Court. share is Rs. 5,000 or
less.

Rupees hundred if the
value is above
Rs. 5,000 but below
Rs. 10,000; and

Rupees two hundred
if the value is
Rs. 10,000 and
above.

(iii) the High Court Rupees three
hundred ".' "

The amendment was carried.

MR. SPEAKER :—" The question is—

' In sub-clause (3), for the words " the defendant " occurring in line 2, substitute the words " a defendant ".

In sub-clause (3), for the words " on the written " occurring in line 3, substitute the words " on his written statement ".

and

In sub-clause (3), line 5, for the words " as the defendant " substitute the words " as such defendant ".' "

The amendments were carried.

Clause 37, as amended, was put and carried.

Clause 38.

MR. SPEAKER :—" The motion is—

' That clause 38 stands part of the Bill.' "

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SRI P. S. KRISHNASWAMY AYYANGAR :—“ I move amendments 57 to 59—

‘ In line 2, omit the words “ a share of ”.

In line 4, omit the word “ plaintiff’s ”.

Add at the end of the clause the words “ which the plaintiff would claim if he brought a suit for partition under sub-section (1) of section 37 ”. ”

SRI M. JAGANNATHAN :—“ I second the amendments, Sir.”

SRI P. K. GOPALAKRISHNAN :—“ I move—

‘ For the words “ on the market value of the plaintiff’s share ”, substitute the words “ at the rates specified in sub-section (2) of section 37 ”. ”

SRI C. H. KANARAN :—“ I second the amendment, Sir.”

MR. SPEAKER :—“ The clause and the amendments are before the House for discussion.”

* SRI P. S. KRISHNASWAMY AYYANGAR :—“ Sir, here what is referred to in clause 38 is suits for joint possession in case of co-parceners. It cannot be predicted at any moment what share a particular member possesses in a joint family property, until a division of status has been brought about and it cannot be said that a particular co-parcener possesses such and such definite share. That can be done only after a divided status comes into existence. Until then, we cannot say that he possesses a 1/4th share or half share and all that. Therefore, when a co-parcener sues for joint possession, it should be a suit for joint possession of the entire joint family property and not a share of the property alone. Unless he sues for partition, he cannot say ‘ I am entitled to one-tenth share ’ and all that. There may be two co-parceners. One of them may be a stout man and the other co-parcener may be a sickly fellow, eating not even one-hundredth of the income of the joint family and the stout man may be consuming almost the entire income of the joint family property. On that account he is not bound to compensate the sickly man who uses only a very small portion of the property. And we cannot say that a co-parcener when he sues for joint possession shall have joint possession of the share alone, since his share cannot be predicated or ascertained till he files a suit for partition. Therefore, there is no such thing here as a co-parcener filing a suit for joint possession of a share. Therefore, I seek to remove the expressions ‘ a share of ’.

“ Secondly, the last portion of the clause says ‘ on the market value of the plaintiff’s share ’. Inasmuch as the plaintiff does not sue for partition, there is no such thing as plaintiff’s share. Therefore, I seek to remove the word plaintiff’s.

“ Lastly, till there has been a partition, it cannot be said that a particular co-parcener has a definite share in the property and

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we cannot also specifically say what his share is. So, to avoid such difficulties, I have moved my third amendment. Those who are experts in Hindu Law may know this point."

THE HON. SRI C. SUBRAMANIAM :—" I propose to accept these amendments, Sir."

* SRI P. K. GOPALAKRISHNAN :—" Sir, I feel that court-fee should be on a computed basis rather than on the basis of share and premises for that has been already argued by the hon. Gentleman, Sri Krishnaswamy Ayyangar. I hope the Government would consider my amendment."

* THE HON. SRI C. SUBRAMANIAM :—" Sir, I am accepting amendment No. 57 of Sri Krishnaswamy Ayyangar alone, that is deletion of the words 'a share of'. All the other things are unnecessary. If a suit is filed for joint possession of a joint family property, it will be based on the plaintiff's share and on what he would be entitled to in the property. Therefore, any other amendment need not be considered."

MR. SPEAKER :—" The question is—

'For the words "on the market value of the plaintiff's share", substitute the words "at the rates specified in sub-section (2) of section 37".'

The amendment was lost.

MR. SPEAKER :—" The question is—

'In line 2, omit the words "a share of".'

The motion was carried.

The other amendments of Sri Krishnaswamy Ayyangar (Nos. 58 and 59) were, by leave of the House, withdrawn.

Clause 38, as amended, was put and carried.

Clause 39.

MR. SPEAKER :—" The motion is—

'That clause 39 stands part of the Bill.'

SRI P. K. GOPALAKRISHNAN :—" Sir, I move—

'Omit sub-clauses (2) and (3).

In sub-clause (4), omit the words "or by a defendant under sub-section (2) or sub-section (3)".'

SRI C. H. KANARAN :—" I second the amendments, Sir."

THE HON. SRI C. SUBRAMANIAM :—" I am opposing the amendments, Sir."

MR. SPEAKER :—" The question is—

'Omit sub-clauses (2) and (3)'.

The amendment was lost.

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MR. SPEAKER :—" The question is—

' In sub-clause (4), omit the words " or by a defendant under sub-section (2) or sub-section (3) " . ' "

The amendment was lost.

Clause 39 was put and carried.

Clause 40.

MR. SPEAKER :—" There is no amendment to clause 40. I shall put it to the vote of the House. The question is—

' That clause 40 do stand part of the Bill ' . ' "

The motion was carried.

Clause 41.

MR. SPEAKER :—" We shall now take up clause 41."

* SRI P. S. KRISHNASWAMY AYYANGAR :—" Before clause 41 is taken, I want to make a suggestion, Sir. I have sought to introduce a new clause, clause 50-A, that is amendment No. 74. In a number of amendments in the intervening clauses, I refer to this new clause 50-A . . . "

(The Member, after some consultation, did not press his point and clause 41 was taken up.)

11
a.m.

* SRI S. RAMALINGAM :—" கனம் சபா நாயகர் அவர்களே, தவறான ஒரு செய்தியின்மேல் ஒருவருடைய வீட்டையோ அல்லது சொத்தையோ அட்டாச் செய்துவிட்டால், மறுபடியும் அந்த அட்டாச் மெண்டை ரத்து செய்ய வேண்டுமென்று கோர்ட்டில் மனு செய்து கொள்ளவேண்டுமென்று விரும்பினால் அவர் தன்னுடைய சொத்தின் மார்க்கெட் வால்யூவில் நாலில் ஒரு பங்கு கட்ட வேண்டும் இல்லாவிடில் 400 ரூபாய் கட்டாயமாக கட்ட வேண்டுமென்று சொல்வது சரியல்ல. இப்பொழுது இருக்கிறபடியே 15 ரூபாய் கட்டினால் போதும் என்று செய்துவிட்டால் நல்லது என்பதே என்னுடைய அபிப்பிராயம். எனென்றால் பெரும்பாலும் சொத்துக்காரருக்குத் தெரியாமலேயே அட்டாச்மெண்டு கொண்டு வந்துவிட்டமுடியும். உதாரணமாக எனக்கு ஒரு வீடு இருக்கிறது. என்னுடைய தம்பிக்கு ஒருவர் கடன் நிறையக் கொடுத்துவிட்டு அந்தக் கடனுக்காக எனக்கே தெரியாமல் என்னுடைய வீட்டின் பேரில் அட்டாச்மெண்டு கொண்டு வந்துவிட்டமுடியும். அதாவது என்னுடைய வீட்டை அவருடைய கடனுக்காக ஜப்தி செய்ய கோர்ட் அட்டாச் மெண்டு வாங்கி வந்துவிட்டமுடியும். என் வீட்டுக்கும் என் தம்பிக்கும் கொஞ்சம்கூட சம்பந்தம் இல்லாமலேயே இருக்கலாம். என் வீட்டுக்கும் என் தம்பிக்கும் சம்பந்தம் இல்லை, ஆகவே கோர்ட் அட்டாச்மெண்டு கொண்டு வந்ததை ரத்து செய்ய வேண்டுமென்று நான் கோர்ட்டுக்குப் போக வேண்டுமென்றால் இந்த ஷரத்துப்படி என் வீட்டின் மொத்த மதிப்பில் நாலில் ஒரு பங்கை, கோர்ட் தொகையாகக் கட்ட வேண்டுமென்று சொன்னால் அது நியாயமாகாது. இப்பொழுதுள்ளபடி 15 ரூபாய் கட்டினால் போதும் என்றே செய்துவிட்டால் அது ரொம்ப நியாயமாக இருக்கும். ஆகவே அதற்குத் தக்க வகையில் சர்க்காரே ஒரு திருத்தம் கொண்டு வந்தால் கூட நலமாக இருக்குமென்று நான் வற்புறுத்திக்கூறு விரும்புகிறேன்."

MR. SPEAKER :—" The hon. Member Sri Krishnaswamy Ayyangar wants to take up clause 50-A. He seeks to introduce a new clause 50-A."

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* SRI P. S. KRISHNASWAMY AYYANGAR :—" I have a new clause 50-A . . ."

THE HON. SRI C. SUBRAMANIAM :—" Clause 50-A need not be considered along with this clause because this is a specific clause relating to suits to set aside attachments, etc. Therefore, that may be taken up separately. Let us now consider clause 41 and then take up clause 50-A if necessary."

MR. SPEAKER :—" Soon after clause 41, clause 50-A will be taken up."

* SRI P. S. KRISHNASWAMY AYYANGAR :—" I have suggested certain improvements to this clause and therefore I referred to clause 51. I want to give No. 51 to this clause and re-number the subsequent clauses. But in the process of editing they have given No. 50-A to this. In amendment No. 64, I say ' In sub-clause (2) for the figures " 50 " substitute the figures " 51 ", i.e., 50-A for the figure 50 '. They may say that clause 50 covers suits of the sort that I seek to have in clause 50-A. Clause 50 prescribes the fee payable where the subject-matter has got a value of so much. It does not refer to properties which are not capable of valuation, as are intended under clause 50-A."

* THE HON. SRI C. SUBRAMANIAM :—" The amendment of the hon. Member Sri Krishnaswami Ayyangar (No. 64) need not be moved now. If in case clause 50-A is accepted, then we can come back to the hon. Member's amendment (No. 64). Meanwhile clause 41 may be considered."

MR. SPEAKER :—" The question is—

' That clause 41 do stand part of the Bill.' "

SRI N. MOUNAGURUSWAMI NAIDU :—" I beg to move—
' In sub-clause (1), omit " of any interest in revenue " occurring in line 3.

In sub-clause (1), in line 5, after " attachment ", insert
" in a suit to set aside any summary decision or order of a Civil or Revenue Court ".

In sub-clause (1) for " shall be computed . . . whichever is less " substitute " shall be payable at the rates specified in section 50 ". "

The amendments (238 to 240) were duly seconded.

SRI P. K. GOPALAKRISHNAN :—" I beg to move—

' In sub-clause (1), line 5, after the words " computed on " insert the word " half ".

For the word " one-fourth " substitute the word " one-eighth " [sub-clause (1)].

In sub-clause (2), for the word " one-fourth ", substitute the word " one-eighth ". "

The amendments (Nos. 143, 144 and 145) were duly seconded.

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MR. SPEAKER :—“ The motion as well as the amendments are now before the House for discussion.

“ Sri Krishnaswamy Ayyangar is not moving any of the amendments (Nos. 60, 61, 62 and 63). Amendment No. 64 will be taken up later.”

* SRI P. K. GOPALAKRISHNAN :—“ As stated by the hon. Member Sri Ramalingam, on certain occasions attachment may take place even without the knowledge of the party concerned. Because, there may be *ex parte* decrees made even without summons being served. These things were discussed when we were on the Demand of administration of justice. In such cases if the party who sues to set aside the attachment is asked to pay court-fee on the amount for which the attachment is made or on one-fourth of the market value of the property which was attached, that is really too high. My amendment seeks to reduce the court-fee to half of what is stated in the clause. I hope the Government will consider the issue.”

* SRI MOUNAGURUSWAMI NAIDU :—“ My first amendment is a very simple amendment. We find the words in line 3 of clause 41 ‘ of any interest in revenue ’. They do not convey any meaning or sense. It may safely be omitted. That is my first amendment.

“ My second amendment is, in sub-clause (1), in line 5, after ‘ attachment ’ insert ‘ in a suit to set aside any summary decision or order of a Civil or Revenue Court.’ That is amplifying the meaning implied in the clause.

“ My third amendment is, in sub-clause (1) for ‘ shall be computed . . . whichever is less ’, substitute ‘ shall be payable at the rates specified in section 50’, i.e., at a fixed rate. These amendments may be accepted.”

11-10
a.m.

SRI T. C. NARAYANAN NAMBIAR :—“ My hon. Friend Sri Gopalakrishnan gave some examples. I just want to give one more example to show that this provision will be a harsh one. In a joint family, that is, in a tarwad in Malabar, the karnavan, that is, the manager may have some debts. The money would have been used for his personal purposes. The properties would have been taken in the name of his wife and others. When an attachment is made on a tarwad property and when the nephew wants to set aside the attachment, he will have to pay one-fourth of the market value of the property. To meet such cases the amendment of my hon. Friend Sri Gopalakrishnan may be accepted.”

* THE HON. SRI C. SUBRAMANIAM :—“ I am sorry the hon. Member Sri Narayanan Nambiar tried to enter the field as far as the discussion on this clause is concerned. The example cited by him has absolutely no bearing on the clause here. It is with reference to the binding nature of a debt incurred by a manager of a joint family in Malabar. That has absolutely no application whatsoever here. This is a case where a certain property is

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attached in execution of a decree alleging that it belongs to the judgment-debtor. Then, a third party intervenes saying that this property does not belong to the judgment-debtor and that it belongs only to him. Then, there is a summary decision of the court with regard to the fact whether it belongs to the judgment-debtor or to the third person claiming interest in the property. This is only a summary order. Then, it is open to the party to go to a Court of Law in a regular suit for the purpose of establishing its right either with reference to the judgment-debtor or the claimant. There is no question of any *ex parte* decree. All that is quite irrelevant for the purpose of this suit. Here a third person comes and claims the property. As against that summary order, a right of suit is provided for. In respect of such suits, what is the court-fee payable? That is what is provided for here. This was very elaborately discussed in the Select Committee. Very eminent lawyers participated. After a good deal of discussion, this compromise formula has been arrived at. I do not think that there is any need to change it.

“As far as the phrase ‘of any interest in revenue’ is concerned, it may be a little bit anomalous now. But it is found in the Act of 1870. To be on the safe side, I want to retain it.”

The amendments of Sri Mounaguruswami Naidu were, by leave, withdrawn.

The amendments of Sri Gopalakrishnan were put and lost.

* SRI P. S. KRISHNASWAMY AYYANGAR :—“On the understanding that we come back to this clause if my amendment proposing a new clause is accepted, I support this clause.”

Clause 41 was put and carried.

Clause 42.

MR. SPEAKER :—“The motion is—

‘That clause 42 do stand part of the Bill.’”

SRI P. S. KRISHNASWAMY AYYANGAR :—“Sir, I move the following amendments :—

‘In item (c), for the word “during” occurring in the last line, substitute the word “for”.’

In item (d), omit the words “on the amount of the consideration or as the case may be”.

Add at the end of item (d) the words “whether such property consists wholly of money, or partly of money and partly of other property or wholly of property other than money”.

The amendments were duly seconded.

MR. SPEAKER :—“The clause as well as the amendments thereto are before the House for discussion.”

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* SRI P. S. KRISHNASWAMY AYYANGAR :—“ Sir, sub-clause (c) reads—

‘ In the case of a contract of lease, computed on the aggregate amount of the fine or premium, if any, and of the rent agreed to be paid during the first year of the term.’

For the word ‘ during ’ I want that the word ‘ for ’ be substituted. There may be rent agreed to be paid during the first year or the rent may be payable under the contract at the beginning of the second year. There may be nothing payable during the first year. Therefore, the rent payable, even though it may be in the second year, should be the rent payable for the first year. Therefore, the proper thing would be to substitute ‘ for ’ for the word ‘ during ’.

“ Secondly, sub-clause (d) reads—

‘ in the case of a contract of exchange, computed on the amount of the consideration, or as the case may be, on the market value of the property sought to be got in exchange.’

In the case of an exchange, one may sue for money which forms part of the property to be got in exchange. Property to be got in exchange may be partly money and partly property other than money. Or, it may be entirely some property other than money. Or, it may be entirely money. When will it be entirely money? For instance, I have got some Japanese currency notes and I want some Indian currency notes in exchange. There is a contract for that purpose. The promissor has not fulfilled the contract. I file a suit for the recovery of the Indian currency notes. That is the consideration. Therefore, it would be entirely money in exchange for money that I part with. In another case for some property that I part with, I may get some other property which is not money. I have got a house and I want to get in exchange for it a land. Here I part with the house and I want to get the land which has been stipulated to be given over to me in exchange. There, the entire property that I seek to recover is not money at all. It is something other than money. On the other hand, the contract may be for me to part with my house and to get in exchange some money, say, Rs. 1,000 and another land. That is, the consideration will consist of money as well as property which is not money. Here, as the clause stands, it may appear that the entire consideration can be money alone and never partly money and partly other property. To have that defect rectified, I suggest the amendment to delete the words ‘ on the amount of the consideration or as the case may be ’. The expression ‘ on the amount of the consideration ’ would mean that the entire consideration would be money. If the entire consideration is money, then it would be a sort of sale and it will not come under exchange. Therefore, I want through my amendment, to delete those words and to add at the end of sub-clause (d) the words ‘ whether such property consists wholly of money, or partly of money and partly of other property or wholly of property other than money.’ In exchange for the property that I have parted with, I may desire to get entirely Indian currency notes, that is, wholly money, or I may get some Indian currency notes and some property other than money.”

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THE HON. SRI C. SUBRAMANIAM :—“ I have been appealing to the hon. Member Sri Krishnaswamy Ayyangar that he need not be so elaborate when discussing clauses. He need not go on giving illustrations and then repeating them. I am good enough to grasp the point.”

SRI P. S. KRISHNASWAMY AYYANGAR :—“ For one fault of mine I may be excused. That has been my habit. It has become my second nature. Therefore, please bear with me.”

SRI P. RANGASWAMI REDDIAR :—“ Sir, sub-clause (c) of clause 42 is not happily worded. Sub-clause (c) reads—

‘ in the case of a contract of lease, computed on the aggregate amount or the time or, premium, if any, and of the rent agreed to be paid during the first year of the term.’

The amendment of the hon. Member Sri Krishnaswamy Ayyangar does not clarify the point. I think it would be better to substitute the words ‘ and of the rent or average annual rent agreed to be paid ’ for the words ‘ and of the rent agreed to be paid ’. In certain cases the period for payment may be one year. In certain other cases it may be five or six years. A Court may order the payment of a fine or premium and in consideration of that fine or premium, for the first year it may not fix any rent to be paid. From the second year onwards, the amount may be ordered to be paid. In such cases the average annual rent may be taken into consideration along with the premium.”

* **SRI M. NARAYANA KURUP** :—“ The point made by the hon. Member Sri Krishnaswamy Ayyangar was that there might be rent for the year but that it might be payable two years hence. But there may be cases where there may not be any provision for payment for the first year at all.

“ Suppose the rent is to be paid from the third year onwards. This difficulty was pointed out by the previous speaker and it still remains even after accepting the amendment of Mr. Krishnaswami Ayyangar.” 11-20 a.m.

* **SRI K. PARTHASARATHY** :—“ In respect of sub-clause (c) there is always that difficulty. In respect of clause 43 also, that difficulty was felt and that was why in the Select Committee there was an elaborate discussion on that point and it was decided in relation thereto that the words “ payable for the year next before the date of presenting the plaint ” should be there. Some such similar wording may be adopted here also. Acceptance of Mr. Krishnaswami Ayyangar’s amendment will not be able to solve the difficulty.”

* **THE HON. SRI C. SUBRAMANIAM** :—“ Sir, I am inclined to agree with Mr. Rangaswami Reddiar. If the words ‘ average annual rent ’ are there, I think that will make the position all right. So, I move—

‘ that in sub-clause (c), line 2, between the words “ and of the ” and “ rent ”, the words “ average of the annual ” be inserted and omit the words “ during the first year of the term, in line 3 ”.’ ”

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MR. SPEAKER :—" I shall put the amendments to vote."

SRI P. S. KRISHNASWAMY AYYANGAR :—" I withdraw my amendments."

The amendments were by leave of the House withdrawn.

MR. SPEAKER :—" The question is—

' that in sub-clause (c), line 2, between the words " and of the " and " rent ", the words " average of the annual " be inserted and omit the words " during the first year of the term, in line 3 " ' "

The amendment was put and carried.

Clause 42 as amended was put and carried.

Clause 43.

SRI V. R. KRISHNA AYYAR :—" Sir, I move—

' In sub-clause (1), after item (e) insert the following item :—

" (f) for restoration of possession by a tenant against a landlord under the Malabar Tenancy Act, 1930." ' "

The amendment was duly seconded.

SRI M. NARAYANA KURUP :—" Sir, I move—

' In sub-clause (2), after the word " premium " insert the words " which does not include advance rent ".

After sub-clause (2) and before Explanation, insert the following proviso :—

" Provided that where the plaintiff seeks to set off the amount due by him towards the arrears of rent due to him, fee shall be levied only on the balance claimed." ' "

The amendment was duly seconded.

SRI P. S. KRISHNASWAMI AYYANGAR :—" Sir, I move—

Add at the end of the clause the following :—

" Explanation.—In this section, where the context requires it ' landlord ' and ' tenant ' shall also respectively denote ' landholder ' and ' ryot ' as defined in the Madras Estates Land Act, 1908 (Madras Act I of 1908)." ' "

The amendment was duly seconded.

* SRI M. NARAYANA KURUP :—" Sir, the term ' premium ' is a technical term. In many cases, under the Transfer of Property Act, lawyers argue that ' munpattam '— the Hon. the Minister for Finance knows what ' munpattam ' is . . . "

THE HON. SRI C. SUBRAMANIAM :—" I do not know anything of Malayalam."

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* SRI M. NARAYANA KURUP :—“ It means advance rent. I want to make it clear that ‘ premium ’ does not include advance rent because I want to avoid a possible confusion. Clause 34 deals with suits relating to kanams, etc., filed by jenmis. There it is provided that where the plaintiff seeks to set off the kanartham and the value of the improvements due by him to the defendant against arrears of michavaram or rent due to him, fee shall be levied only on the balance claimed. This clause as well as clause 43 now under discussion deals with possession. So, I want the principle underlying clause 34 to be incorporated here also.”

SRI V. R. KRISHNA AYYAR :—“ Sir, my amendment is simple. In clause 43, there are five items, (a) to (e) and they deal with suits between landlord and tenant. Landlord and tenant are put in a separate category under the Malabar Tenancy Act and there are certain kinds of suit which are filed under that Act. For instance, a landlord files a suit for eviction of the tenant on the ground of *bona fide* cultivation for himself or for building purposes and recovers possession of the land from the tenant. Subsequently, he forfeits the confidence placed upon him by the Court in that he neither cultivates the land nor constructs any buildings on it. He may lease it to somebody else. In such cases, the tenant has got an equal right to sue the landlord for restoration of possession. He can say in the Court : ‘ The landlord has not put the land to that use which he said he would. He has not cultivated or constructed any building on it which he pretended to do. So, the land may be restored to my possession.’ When this happens restoration of possession takes place and the relationship of landlord and tenant gets revived. Such a provision exists in section 21 of the Malabar Tenancy Act; I do not know the corresponding number of the section in the present Amendment Act, which makes different provisions for *verumpattamdars* and *kuzhikanamdars*. This is recovery of occupancy of the land and there should be a specific provision for it in the clause. Therefore, I move my amendment.”

* SRI P. S. KRISHNASWAMI AYYANGAR :—“ Sir, sub-clause (a) of clause 43 refers to delivery by a tenant of the counter-part of a lease or acceptance of patta in exchange for a muchilika. Sir, the exchange of pattas and muchilikas takes place in zamindari areas between the landholder and the ryot. Again in item (c), it is stated : ‘ for the delivery by a landlord of a lease or for obtaining a patta in exchange for a muchilika.’ Even there the reference is to transactions between a landholder and a ryot. This clause includes also cases of landlords, who are landholders as defined under the Estates Land Act. Therefore I want to add an Explanation at the end of clause 43, viz. :

‘ *Explanation.*—In this section, where the context requires it “ landlord ” and “ tenants ” shall also respectively denote “ landholder ” as defined in the Madras Estates Land Act, 1908 (Madras Act I of 1908).’

This is the Explanation I want to be added to clause 43.”

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* THE HON. SRI C. SUBRAMANIAM :—“ Sri P. S. Krishnaswamy Ayyangar's Explanation is quite unnecessary. There is no question of landholder or ryot as such after the abolition of all estates.

“ With reference to Sri V. R. Krishna Ayyar's amendment, I am sorry it will not be possible to include it here. It deals with landlord and tenant as defined under the Malabar Tenancy Act. I am sorry he gave notice of that only just now. Therefore it will not be possible to accept it now. It is a separate thing and I will have to examine it. We shall examine it and try to bring in an amendment, if necessary, at a later stage, if we think that the amendment of Sri V. R. Krishna Ayyar is necessary. With reference to the amendment of Mr. Narayana Kurup let me say that this clause does not relate to suits for the recovery of the arrears of rent. It is only in the following suits between landlord and tenant namely :

(a) for the delivery by a tenant of the counterpart of a lease or for acceptance of patta in exchange for a muchilika;

(b) for enhancement of rent;

(c) for delivery by a landlord of a lease or for obtaining a patta in exchange for a muchilika;

(d) for recovering occupancy of immovable property from which a tenant has been illegally ejected by the landlord;

(e) for establishing or disproving a right of occupancy.”

fee shall be computed on the amount of rent for the immovable property to which the suit relates, payable for the year next before the date of presenting the plaint. Therefore only suits coming under (a), (b), (c), (d) and (e) are covered by this clause. Other suits, for instance suits for the recovery of arrears of rent do not come under this clause. Therefore I do not think it will be possible to accept the amendment of Sri M. Narayana Kurup to this clause 43. There is a separate clause, viz., clause 34 which deals with suits relating to kanams under the Malabar Tenancy Act of 1929. Therefore, Sir, I do not think I can accept any of the amendments proposed to clause 43.”

* SRI P. S. KRISHNASWAMY AYYANGAR :—“ No doubt some zamindaris have been abolished. There are yet inam estates which come under the category of zamins. There may be some suits under the Estates Land Act, so long as there are still some estates remaining. That being so there may be necessity for an explanation as the one I have given notice of. There is no harm in having such an explanation.”

THE HON. SRI C. SUBRAMANIAM :—“ This has been examined and I have been advised that it is not necessary.”

With the permission of the House, the amendment of Sri P. S. Krishnaswamy Ayyangar was withdrawn.

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With the permission of the House, the amendment of Sri M. Narayana Kurup was withdrawn.

SRI V. R. KRISHNA AYYAR :—“ I would like to say one word. It is this. Clause 43 contains a sub-clause (d) which deals with suits for recovering occupancy of immovable property from which a tenant has been illegally ejected by the landlord. I want that another sub-clause (f) may be added after (e), viz.,

“(f) for restoration of possession by a tenant against the landlord under the Malabar Tenancy Act, 1930.”

Section 21 (1) of the Malabar Tenancy Act (Madras Act XIV of 1930) states :

“ In any case in which eviction is obtained on the ground specified in clause (5) of section 20, subject to the provisions of clause 43 (if any one of the six agricultural years following such eviction, the landlord who has obtained such eviction, fails without reasonable excuse to use the major portion of the lands, for the purpose for which such eviction was obtained or transfers any of the lands to any person on any kind of lease or mortgage with possession or kanam, kanam-kuzhikanam, or verumpattam), the tenant shall be entitled to sue for the restoration to him of the possession of all the lands from which he was evicted and to hold them with all the rights and subject to all the liabilities of a tenant.”

But these kinds of suits are not covered by this clause 43. It is not clearly specified what court-fee shall be payable on these suits. That is why I want that the item (f) which I have given notice of may be added on after sub-clause (e) of clause 43 so that in all such suits the fee shall be levied on the amount of rent for the immovable property to which the suit relates, payable for the year next before the date of presenting the plaint. It is true I am guilty of giving notice of this amendment very late. But I hope I will have the indulgence of the Hon. Minister and that he would accept my amendment. The Hon. Minister has said that he would consider this. I request him that a further consideration may be given and that my amendment may find its way as item (f) of clause 43.”

* THE HON. SRI C. SUBRAMANIAM :—“ As far as what Mr. V. R. Krishna Ayyar has stated, I am informed that necessary provisions have already been made under section 52 (b) of the Malabar Tenancy (Amendment) Act which was recently passed. Anyhow I shall have the amendment, given notice of by Sri V. R. Krishna Ayyar examined further. If necessary, we shall bring in an amendment later.”

SRI V. R. KRISHNA AYYAR :—“ With the assurance given by the Hon. Minister that my amendment would be examined, I am not pressing my amendment.”

With the permission of the House, the amendment of Sri V. R. Krishna Ayyar was withdrawn.

Clause 43 was put and carried.

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Clause 44.

SRI P. S. KRISHNASWAMY AYYANGAR :—“ Sir, I move—
‘ In sub-clause (1) for the word “ profit ” occurring in line 8, substitute the word “ profits ”.’ ”

THE HON. SRI C. SUBRAMANIAM :—“ I am accepting the amendment (No. 70) of Sri P. S. Krishnaswamy Ayyangar, viz.,

‘ In sub-clause (1) for the word “ profit ” occurring in line 8, substitute the word “ profits ”.’ ”

MR. SPEAKER :—“ The question is—

‘ In sub-clause (1) for the word “ profit ” occurring in line 8, substitute the word “ profits ”.’ ”

The motion was put and carried.

Clause 44 as amended was put and carried.

Clause 45.

SRI P. S. KRISHNASWAMY AYYANGAR :—“ Sir, I want to say before moving my amendment No. 72”

MR. SPEAKER :—“ The hon. Member can please move his amendment formally. Then I will call the hon. Member again.”

* SRI P. S. KRISHNASWAMY AYYANGAR :—“ Before moving my amendment I want to make a representation. In amendment No. 72, I refer to New Clause 50-A which I have given notice of. Therefore till that New Clause 50-A is disposed of, this amendment No. 72 of mine cannot be taken into consideration. In place of amendment No. 71, I am moving amendment No. 72 which amendment could be taken into consideration only after the New Clause 50-A is disposed of.”

MR. SPEAKER :—“ That is the hon. Member wants his amendment to be taken up afterwards. All right. Is the hon. Member Sri P. K. Gopalakrishnan moving his amendment? ”

SRI P. K. GOPALAKRISHNAN :—“ Yes, Sir. I move—

‘ For the words “ on one-half of the market value whichever is higher ”, substitute the words “ at half the rates specified in section 50 ”.’ ”

The amendment was duly seconded.

SRI V. R. KRISHNA AYYAR :—“ Sir, I move—

‘ In line 4, for “ value of the property ” substitute “ so much of the property as is ”.’ ”

SRI M. KALYANASUNDARAM :—“ I second it, Sir.”

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SRI V. R. KRISHNA AYYAR :—“ My amendment is only verbal. As it is clause 45 states—

“ In a suit under section 14 of the Madras Survey and Boundaries Act, 1923 (Madras Act VIII of 1923), fee shall be computed on one-half of the market value of property affected by the determination of the boundary or on rupees four hundred, which ever is higher.”

Suppose there is the slightest alteration in the boundaries. Suppose the extent affected by the fixation of the boundary is, say 100 acres, and there has been a slight alteration of the boundary then the man filing the suit is asked to pay fee, computed on one-half of market value of the entire 100 acres. That means he has to pay a large court-fee. That is why I have suggested an amendment that he shall pay the court-fee computed on one-half of the market value of *so much of the property as is affected by the determination of the boundary.*

“ I suppose that is the intention. I hope the position will be made clear by accepting my amendment.” 11-40 a.m.

* SRI P. K. GOPALAKRISHNAN :—“ Mr. Speaker, the present wording in this clause is quite uncertain and it should be made clear. It may be the whole property or a slice thereof. When it is only a slice of the property that is affected, it will be very difficult to ascertain the value of the same till a finding is made on the issue. To make the position clear in this regard, I want the substitution of the words ‘ at half the rates specified in section 50 ’. I hope the Government will consider this aspect also and accept the amendment.”

SRI E. T. KUNHAN :—“ മിസ്റ്റർ സ്പീക്കർ, സർ, അതിൽ സംബന്ധിച്ച തക്കങ്ങൾ 30 ക. ഫീസ് നിയമിക്കുന്നത് വളരെ കൂടുതലാണ്. മലബാറിലാണെങ്കിൽ അതിന്റെ സംബന്ധിച്ച് എത്രയോ തക്കങ്ങൾ മിനപ്പെരി ഉണ്ടായിരിക്കാണ്ടിരിക്കുന്നു. വരമ്പുനിക്കി, കല്ലുനീക്കി, വേലിപൊളിച്ചു എന്നിങ്ങനെയുള്ള വഴക്കുകൾ സത്യസാധാരണമാണ്. ബലം കറഞ്ഞുപൊറിയ ഭൂമിയുടെ മുമ്പാകെ അടുത്തുള്ള ഭവനമായും പ്രബലനാൽ ഇത്തരം സമ്പ്രദായങ്ങൾ കൊണ്ട് ബുദ്ധിമുട്ടിക്കാറുണ്ട്. അങ്ങനെയുള്ള കേസ്സുകളിൽ തക്കം തീർക്കുകയോടുകൂടേണ്ടത് ഗവണ്മെന്റിന്റെ ചുമതലയാണെന്നാണ് ഞാൻ പറയുന്നത്. ചെറിയ കൃഷിക്കാർക്കുള്ളതും ധാരാളം തക്കങ്ങളുണ്ടാകുന്നുണ്ട്. കൃഷിക്കാർ അന്യോന്യം വഴക്കുണ്ടാക്കുമ്പോൾ അതു തീർക്കുന്നതിന്നു പകരം മേല്പേ നിന്നുകൊണ്ട് ഗവണ്മെന്റ് മുതലെടുക്കുന്നത് നല്ലൊരു നടപടിയല്ല. ഗവണ്മെന്റ് ആ നയം ഉപേക്ഷിക്കണമെന്നാണ് എനിക്കു പറയാനുള്ളത്. വളരെ ചുരുങ്ങിയ ചെലവിൽ അത്തരം തക്കങ്ങൾ തീർക്കുകയോടുകൂടേണ്ടത് അത്യാവശ്യമാണ്. 30 ക. എന്നുള്ളത് 15 ക. ആക്കണമെന്നാണ് എന്റെ അഭിപ്രായം. ജന്മി ഭൂമി പട്ടക്കാരനെ ഏല്പിക്കുമ്പോൾ ഭൂമിയുടെ യാതൊരു നഷ്ടവും വരരുത് ചെയ്യേണം. അതിന്റെ ഭൂമിപ്പോലും നഷ്ടമാകാതെ സൂക്ഷിച്ചു കൊള്ളാമെന്നും മറ്റും കരാർ എഴുതിക്കൊടുക്കേണ്ടതായാണ്. അതുകൊണ്ട് അതിന്റെ സംബന്ധമായി എന്തെങ്കിലും തക്കമാറുമ്പോൾ കൃഷിക്കാരനാണ് നഷ്ടം കൊടുക്കേണ്ടി വരുന്നത്. അതുകൊണ്ടും കൂടിയാണ് ഈ ഫീസ് ചുരുക്കണമെന്ന് ഞാൻ ആവശ്യപ്പെടുന്നത്.”

SRI V. R. KRISHNA AYYAR :—“ Sir, I would like to make one more submission, over and above the amendment that I have moved. The Hon. Minister has already agreed to reduce the amount from Rs. 400 to Rs. 300 in respect of another clause which we considered earlier. I request him to concede or indulge in reducing the amount in the same way here also.”

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* SRI P. S. KRISHNASWAMI AYYANGAR :—“ Sir, I wish to make one representation. Hon. Member Sri Krishna Ayyar's amendment does not in any way improve the situation. In clause 45, it is stated, ‘ . . . fee shall be computed on one-half of the market value of the property affected by the determination of the boundary . . . ’ There will be disputes in survey demarcation. These disputes will arise between two adjoining owners and one of them will be beneficially affected and the other will be prejudicially affected. The expression used in this clause is, to my mind, not appropriate. Suppose there is a particular slice of property and with regard to that slice alone there is some dispute. This slice alone has to be taken into consideration in the matter of fixation of court-fee. It is with reference to such slices, I have given my amendment. This clause may be taken up after disposing of my amendment for the insertion of a new clause 50-A.”

* THE HON. SRI C. SUBRAMANIAM :—“ Sir, the language used here is in the existing law and there has been no difficulty in determining what was meant by ‘ property affected ’. It means that portion which is really affected. I don't think we can make a change here at this stage, especially when the present provision is well-understood and there has been no difficulty with regard to that.

“ As regards the suggestion of Sri Krishna Ayyar that the amount may be reduced to three hundred rupees, I agree to the same. I am unable to accept the other amendments, Sir.

I move the following amendment :—

‘ For the words “ four hundred ” substitute the words “ three hundred ”.’ ”

The amendment of hon. Member Sri V. R. Krishna Ayyar was by leave, withdrawn.

The amendment of hon. Member Sri P. K. Gopalakrishnan was, by leave, withdrawn.

MR. SPEAKER :—“ I will now put the Government amendment to the vote of the House. The question is—

‘ For the words “ four hundred ” substitute the words “ three hundred ”.’ ”

The motion was put and carried.

Clause 45, as amended, was put and carried.

Clauses 46 and 47 were put and carried.

Clause 48.

MR. SPEAKER :—“ The motion is—

‘ That clause 48 do stand part of the Bill ’.”

SRI P. K. GOPALAKRISHNAN :—“ Sir, I move the amendment standing in my name, viz.,

‘ Omit sub-clause (2) ’.”

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SRI C. H. KANARAN :—" I second the amendment, Sir."

THE HON. SRI C. SUBRAMANIAM :—" I do not accept the amendment, Sir."

The amendment moved by Sri P. K. Gopalakrishnan was, by leave, withdrawn.

Clause 48 was put and carried.

Clause 49 was put and carried.

Clause 50.

MR. SPEAKER :—" The motion is—

' That clause 50 do stand part of the Bill '."

SRI V. R. KRISHNA AYYAR :—" Mr. Speaker, I move the amendment standing in my name, viz.,

' For the word "*thirty*" substitute the word "*fifteen*" and for the figure "*200*" substitute the figure "*100*" wherever they occur '."

SRI S. RAMALINGAM :—" I second the amendment, Sir."

SRI P. K. GOPALAKRISHNAN :—" Sir, I move the amendments (149 to 151) standing in my name, viz.,

' In item (i) for the word "*fifteen*" substitute the word "*five*".

In item (ii), for the word "*thirty*", substitute the word "*fifteen*".

In item (iii), for the letters and figures "*Rs. 5,000*", substitute the letters and figures "*Rs. 10,000*". ' "

SRI C. H. KANARAN :—" I second the amendments, Sir."

SRI M. NARAYANA KURUP :—" Sir, I move the amendment (94) standing in my name, viz.,

' For the existing rates, substitute the following :—

(i) *In a Revenue Court* *Rupees fifteen.*

(ii) *In a District Munsif's Court* .. *Rupees thirty.*

(iii) *In the City Civil Court, Madras or a Sub-Court or a District Court.* *Rupees thirty if the value of the subject matter is Rs. 5,000 or less; and*

Rupees one hundred if the value is above Rs. 5,000 but below Rs. 10,000 and

Rupees two hundred if the value is above Rs. 10,000.

(iv) *In the High Court* *Rupees three hundred."*

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SRI T. C. NARAYANAN NAMBIAR :—" I second the amendment, Sir."

SRI N. MOUNAGURUSWAMI NAIDU :—" Sir, I move the amendment (244) standing in my name, viz. :—

' For " *thirty* " substitute " *twenty-five* ".' "

SRI H. M. JAGANNATHAM :—" I second the amendment, Sir."

SRI V. GOPALA GOUNDER :—" Sir, I move the following amendment (73) :—

' *In item (ii), for the word " thirty " substitute the word " fifteen."* ' "

MR. SPEAKER :—" Clause 50 and the amendments moved thereto are now before the House for discussion."

* SRI M. NARAYANA KURUP :—" Sir, in view of the fact that the Hon. Minister has been pleased to accept a similar amendment to a clause which we considered earlier, I request him to accept the amendment here also. We have to adopt the same slab system here which we have adopted previously. This is what I wish to say."

SRI V. R. KRISHNA AYYAR :—" Sir, if the alteration suggested by Sri Narayana Kurup is accepted, I do not press my amendment."

SRI P. K. GOPALAKRISHNAN :—" Sir, there is no case for enhancing the court-fee in respect of suits in Revenue Courts and District Munsif's Courts. It is not at all called for. I think the existing rates are quite all right. Therefore, I request that my amendments may be accepted."

* THE HON. SRI C. SUBRAMANIAM :—" Sir, I am prepared to accept the amendment moved by hon. Member Sri Narayana Kurup with the slight alteration as already indicated. It has to be ' Rs. 10,000 and above ' instead of ' above Rs. 10,000 '. I oppose all other amendments."

The amendments of Sri V. R. Krishna Ayyar and Sri Mounaguruswami Nayudu were, by leave, withdrawn.

MR. SPEAKER :—" I shall now put the amendments moved by hon. Member Sri P. K. Gopalakrishnan. The question is—

' In item (i) for the word " *fifteen* " substitute the word " *five* ".

In item (ii) for the word " *thirty* " substitute the word " *fifteen* ".

In item (iii) for the letters and figures " Rs. 5,000 " substitute the letters and figures " Rs. 10,000 ".' "

The amendments were put and lost.

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MR. SPEAKER :—“ I shall now put the amendment moved by the hon. Member, Sri V. Gopala Gounder. The question is :—

‘ In item (ii) for the word “ thirty ” substitute the word “ fifteen ”.

The amendment was put and lost.

MR. SPEAKER :—“ I shall now put the amendment of Sri M. Narayana Kurup with the verbal change as indicated by the Hon. Minister for Law. The question is—

‘ For the existing rates, substitute the following—

(i) In a Revenue Court Rupees fifteen.

(ii) In a District Munsif's Court .. Rupees thirty.

(iii) In the City Civil Court, Madras Rupees thirty if the
or a Sub-Court or a District value of the subject
Court. matter is Rs 5,000
or less ; and

Rupees one hundred
if the value is above
Rs. 5 000 but below
Rs. 10,000 and

Rupees two hundred
if the value is
Rs. 10,000 and
above.

(iv) In the High Court Rupees three hundred.
red. ”

The amendment was put and carried.

Clause 50, as amended, was put and carried.

New clause 50-A.

* SRI P. S. KRISHNASWAMY AYYANGAR :—“ Mr. 11-50
Speaker, Sir, I move the amendments, namely :— a.m.

‘ After clause 50, insert the following as clause 50-A :—

“ 50-A. Suits not capable of valuation—In a suit where it is not possible to estimate at a money value the subject-matter in dispute, the plaintiff shall, having regard to the magnitude, and importance and nature of the subject-matter state in the plaint a reasonable amount as the value of the suit for jurisdictional purposes and the court-fee in respect of such subject-matter shall be paid at the following rates :—

When the plaint is presented to—

(i) a District Munsif's Court .. Rupees thirty.

(ii) the City Civil Court, Madras, Rupees two hundred.
a Sub-Court or a District
Court

(iii) the High Court .. Rupees three hundred.” ”

The amendment was duly seconded.

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* SRI P. S. KRISHNASWAMY AYYANGAR :—“ Sir, the clause 50 which was just now approved may be said to cover this subject-matter also. But my impression is, it does not. Item (iii) of clause 50 says :

‘In the City Civil Court, Madras, or a Sub-Court or a District Court.	Rupees thirty if the value of the subject-matter is Rs. 5,000 or less and Rs. 200 if it is above Rs. 5,000.’
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This clearly refers to suits relating to properties which have got a money value or have a market value. But no provision has till now been made in respect of properties which have no money value at all. It is to remedy that defect that I have suggested the new clause.”

* THE HON. SRI C. SUBRAMANIAM :—“ Clause 50 is comprehensive enough to include every case contemplated by him. I do not think there is necessity to include this new clause. I oppose it.”

* SRI P. S. KRISHNASWAMY AYYANGAR :—“ Sir, I anticipated this reply from the Hon. Minister and therefore it was that I referred to clause 50, particularly to item (iii). The clause refers to the value of the subject-matter. It means that it is capable of being valued in terms of money. But my amendment relates to suits wherein the subject-matter is not capable of being valued in terms of money.”

* THE HON. SRI C. SUBRAMANIAM :—“ The party will value it for purposes of jurisdiction and on that he may pay court-fees.”

The amendment was by leave of the House withdrawn.

* SRI T. SHANMUGAM :—“ Sir, the hon. Member Sri Krishnaswamy Ayyangar gives notice of so many amendments and withdraws them at the instance of the Hon. Minister . . .”

MR. SPEAKER :—“ It is his will and pleasure to give as many amendments as he wants and withdraw any or all of them.”

* SRI T. SHANMUGAM :—“ Suppose, Sir, I say I do not like to give permission to the hon. Member to withdraw his amendment . . .”

MR. SPEAKER :—“ Is he opposing the withdrawal of the amendment by the hon. Member Sri Krishnaswamy Ayyangar? Then I will put that to the vote of the House . . .”

SRI T. SHANMUGAM :—“ Yes, I oppose.”

* THE HON. SRI C. SUBRAMANIAM :—“ That was over long ago, Sir. Let him take the next occasion to oppose the withdrawal of the amendment by the hon. Member Sri Krishnaswamy Ayyangar. He cannot raise it at any time he pleases. Therefore let him take another opportunity.”

Clause 51 was put and carried.

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Clause 52.

MR. SPEAKER :—" Motion moved—

' That clause 52 do stand part of the Bill.' "

* SRI P. K. GOPALAKRISHNAN :—" Mr. Speaker, Sir, I move the amendments standing in my name, namely :

' (1) For the words " the same as ", substitute the words " half of ".

(2) Omit *Explanations* (3) and (5). ' "

The amendments were duly seconded.

* SRI P. K. GOPALAKRISHNAN :—" Sir, in appeals the courts take only less time. No trail of suits is involved in appeals. Therefore I think, half of the court fees levied in original courts would be sufficient for appeals. Hence my amendment suggesting the substitution of the words ' half of ' in the place of the words ' the same as '. In Explanation (3) it is stated ' claims which include the award of interest subsequent to the institution of the suit, the interest accrued during the pendency of the suit till the date of decree shall be deemed to be part of the subject-matter of the appeal except where such interest is relinquished '. There is no dispute regarding interest accrued during the pendency of the suit and there is no justification for collecting extra fee on that. I hope that explanation would be dropped. I also hope that the court fee leviable on appeal will be restricted to half of the amount payable in the original court."

THE HON. SRI C. SUBRAMANIAM :—" This is only a repetition of the existing provision. I do not think we need revise it."

* SRI P. K. GOPALAKRISHNAN :—" Because of the reasonableness of my amendment, I hope the Government would accept it."

THE HON. SRI C. SUBRAMANIAM :—" It is not reasonable."

The amendments were put and lost.

Clause 52 was put and carried.

Clause 53.

MR. SPEAKER :—" Motion moved—

' That clause 53 do stand part of the Bill.' "

SRI N. MOUNAGURUSWAMI NAIDU :—" Mr. Speaker, Sir, I move the following amendment, namely :—

' In sub-clause (2) for " such amount . . . " substitute " the market value of the property involved in suit " . ' "

The amendment was duly seconded.

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* SRI N. MOUNAGURUSWAMI NAIDU :—“ Sir, clause 26 relates to court fee payable in respect of adoption suits. There a fixed fee is prescribed and in sub-clause (2) of this clause, where a fixed rate is fixed, the value for purposes of determining the jurisdiction of courts, will be such an amount as the plaintiff shall state in the plaint. It means in a suit for a declaration in respect of adoption made, the plaintiff can file a suit even where the property involved is more than 10 lakhs of rupees, in the Munsif's Court and value it at say Rs. 50 or Rs. 25. The suit will have to be tried by a District Munsif. This is an anomolous position. To remove it, I have proposed the amendment. According to my amendment the market value of the property involved in the suit should be taken as the criterion for fixing jurisdictional value of the suit. I would request the Hon. Minister to accept my amendment.”

THE HON. SRI C. SUBRAMANIAM :—“ I am accepting the amendment with a little change. It would cover the cases referred to by the hon. Member Sri Krishnaswamy Ayyangar also. I will just pass on the Government amendment.”

MR. SPEAKER :—“ Is the hon. Member withdrawing his amendment.”

SRI N. MOUNAGURUSWAMI NAIDU :—“ Yes, Sir.”

The amendment was by leave of the House withdrawn.

THE HON. SRI C. SUBRAMANIAM :—“ Mr. Speaker, Sir, I move that—

‘ In sub-clause (2) of clause 53, after the words “ shall be ” in line 3, the words “ the market value or where it is not possible to estimate it at a money value ” shall be inserted.’ ”

The amendment was put and carried.

Clause 53 as amended was put and carried.

Clauses 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67 and 68 were put and carried.

Clause 69.

MR. SPEAKER :—“ Motion moved—

‘ That clause 69 do stand part of the Bill ’.”

* SRI Y. MANJAYA SHETTY :—“ Sir, I move the following amendment which stands in my name :—

‘ After the words “ the merits of the claim ”, insert the words “ and whenever any suit is decided ex parte or compromise decree is passed on admission ”.’ ”

SRI M. CHINNATHAMBI THEVAR :—“ I second it.”

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MR. SPEAKER :—“ Amendment moved—

“ After the words “ the merits of the claim ”, insert the words “ and whenever any suit is decided *ex parte* or compromise decree is passed on admission ”.”

Now both the clause and the amendment are before the House for discussion.”

* SRI Y. MANJAYA SHETTY :—“ Sir, at present there is no provision for refunding any portion of the court-fee to the parties concerned but I am glad that such a provision is made in the present Bill and clause 69 provides for the refund of a portion of the court fee. Even this clause is restrictive in its application as refund will be made only in cases where a suit is settled out of Court before any evidence is recorded on the merits of the claim. It would have been better if it is extended even to suits which are decided *ex parte* and also to suits in which compromise decrees are passed on admission. If such concessions are granted to this kind of suits, I am sure, much of the unnecessary, cantankerous and frivolous litigation that is prevailing in our courts would come to an end and much of the time of the courts would be saved. Sir, my experience is that in most of the mufassal courts defendants, either in small cause suits or original suits file nominal written statements putting forth certain frivolous contentions. If such concessions are granted to suits to be decreed *ex parte* or compromise suits and a refund of court fees is made, I think, most of the defendants may not file any written statement or even if they file it—a nominal one—they may subsequently admit before going into trial for decrees to be passed. So, in the interests of the litigant public and also to save much of the time which is otherwise spent in court in dealing with frivolous contentions, I hope, the Government will accept my amendment extending the concessions provided in this clause to such class of suits mentioned in my amendment.”

SRI V. R. KRISHNA AYYAR :—“ Sir, I also heartily support the amendment moved by the hon. Member, Sri Manjaya Shetty, for this reason. Even now in the matter of vakil fees under the Legal Practitioners' Rules, there is a concession shown in a suit decided *ex parte* or in a suit where an admission decree is passed. One of the major principles followed in fixing the court fee is the time taken in the Court to dispose of a case. Sometimes a case is disposed of in the first hearing itself and the court may pass a decree *ex parte*. Also if a party admits the contents of the case, then the time of the court is not taken. Sometimes a party may not even contest it and in all such cases refund should be made. Even in the case of suits where compromise decrees are passed, the Government can benevolently extend the principle. So, I support the amendment moved by the hon. Member, Sri Manjaya Shetty.”

SRI E. L. RAGHAVA MUDALIAR :—“ Mr. Speaker, Sir, I also heartily support the amendment moved by the hon. Member,

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Sri Manjaya Chetty. This was discussed at the Select Committee and the argument of the Hon. Minister for Law was that even if a suit was decreed in terms of a compromise, execution proceedings would have to be gone through and therefore there was no justification for refunding half of the court fee. But I would submit that a suit will be dismissed as settled out of court only in pursuance of a compromise and the difference is only in the phraseology used. And in most of the cases where suits are settled, there would not be any chance of filing execution petitions because the parties settle their claims out of court and act accordingly. Only in a very few cases compromise decrees come up for execution. After all, even the time taken up for execution proceedings is not much and even for execution proceedings a separate court-fee is levied though it is not very much. Simply because there may be a few cases where execution proceedings might have to be undergone, it is not right on the part of the Government to refuse refund of court fee in compromise cases. Therefore, I support the amendment."

* SRI N. GOPALA MENON :—" Sir, I do not think that in the case of *ex parte* decree money could be refunded because an *ex parte* decree could always be set aside and there is no finality to it. An aggrieved person can set it aside later on even after two years by saying that he had not received summons or notice. So in the case of suits decided *ex parte* no refund can be allowed. There will be some principle in refunding the court fee if there is a finality brought about really by the parties concerned and not through the agency of the court."

* THE HON. SRI C. SUBRAMANIAM :—" Sir, as pointed out by the hon. Member Sri Raghava Mudaliar himself, we considered this aspect of the matter in the Select Committee and I explained the whole thing. At that time I also pointed out the Privy Council dictum 'the plaintiff's difficulties begin only after the decree is passed'. It is only during the course of the execution, all sorts of obstructions are put. As a matter of fact it goes on for twelve years and there is a period of limitation of twelve years for execution of decrees. Not in all cases but in many cases this obstruction is put. Under those circumstances, we thought that it would not be necessary to give refund in respect of *ex parte* decrees, and so also with regard to compromise decrees. I myself brought about so many compromises as a lawyer. It is only during the execution of the compromise decrees that all these obstacles are put. I know a case which went even up to the Privy Council and it was with regard to the execution of a compromise decree. That is why we have made provision for refund in this Bill only for suits which are dismissed as settled out of court before any evidence has been recorded on the merits of the claim. After all, we are making a good beginning and till now there was no provision for any refund. Let us make this beginning and see how it works and there will be time enough to think over the matter. Even though the object of the hon. Mover of the amendment is laudable, I request him to withdraw it."

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* SRI Y. MANJAYA SHETTY :—" In view of what the Hon. Minister has stated that the Government have made a good beginning and while appreciating that beginning and expecting much more in future, I am withdrawing my amendment."

The amendment (103) of Sri Y. Manjaya Shetty was by leave of the House withdrawn.

Clause 69 was put and carried.

Clauses 70 and 71 were put and carried.

Clause 72.

SRI M. KALYANASUNDARAM :—" Sir, I move the following amendments which stands in my name :—

' Add at the end the following as item (xxi) :—

" (xxi) any application by a worker for payment of claims from his employer due under an award of an Industrial Tribunal;"

' Add the following items :—

" (xxi) Any statement or document filed by an accused in a criminal case.

(xxii) Plaints or written statements or other documents filed by a member of Scheduled Castes or Scheduled Tribes in any Court of Law.

(xxiii) Copy of any document connected with the case applied for by an accused in a criminal case.

(xxiv) Copy of any document applied for by a member of Scheduled Castes or Scheduled Tribe in any case whether Civil or Criminal wherein he is a plaintiff or a defendant." " "

SRI T. C. NARAYANAN NAMBIAR :—" Sir, I second the amendments."

SRI S. RAMALINGAM :—" I move the following amendment which stands in my name :—

' Add the following new item :—

" (xxi) petitions, affidavits, exhibits and all other documents filed by or on behalf of an accused in any Criminal Court." " "

SRI K. T. RAJU :—" Sir, I second it."

SRI P. K. GOPALAKRISHNAN :—" Sir, I move the following amendment which stands in my name :—

' Add the following items :—

" (xxi) application by a tenant for fixation of fair rent under the Malabar Tenancy Act, 1929;

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(xxii) application by a worker for the payment of money due by a factory management to the applicant under Payment of Wages Act." " "

SRI E. T. KUNHAN :—" Sir, I second it."

SRI P. RANGASWAMI REDDIAR :—" Sir, I move the following amendments which stand in my name :—

' In item (ii), after " by advocates ", insert " or pleaders ". After item (xx), insert the following items :—

" (xxi) Copies or documents chargeable under Articles 5, 6, 7 and 9 of the Second Schedule and furnished by Civil or Criminal Courts or Revenue Courts or offices, for the private use of persons applying for them :

Provided that nothing in this clause shall apply to copies or documents, when filed, exhibited or recorded in any court of justice or received by any public officer.

(xxii) Applications for the return of documents filed in any Civil or Criminal Court or Revenue Court or public office." " "

The amendments were duly seconded.

THE HON. SRI C. SUBRAMANIAM :—" Sir, I move the following amendment which stands in my name :—

' In item (xx), after the words " Court of Wards ", insert the words " when presented to any superior officer or Government " " "

MR. SPEAKER :—" Now clause 72 and the amendments are before the House for discussion."

12-10
p.m.

* SRI P. RANGASWAMI REDDIAR :—" Mr. Speaker, Sir, clause 72 (ii) reads : " (ii) memorandum of appearance filed by Advocates when appearing for persons proceeded against in criminal cases ". There was some confusion under the old Act. Pleaders appearing for complainants should file vakalats. Advocates appearing either for complainants or for the accused may file a memorandum of appearance. Both pleaders and advocates can file memorandum of appearance when they appear for the accused. Therefore, when the Government by a notification remitted the fees chargeable on the memorandum of appearance put in by the pleaders, some doubts arose and subsequently memo. of appearance filed by advocates also was exempted. Now, if clause 72 (ii) is allowed to be passed as it is, there may rise some doubts as regards memo. of appearance filed by pleaders. The expression 'pleaders' is defined in the Criminal Procedure Code as persons authorised to appear before criminal courts, including advocates, attorneys, etc. Therefore, I say that the words " or pleaders " may be added after the words ' by advocates '.

" What my next amendment No. 297 contemplates is this. Under the old Act, a large number of cases were exempted by a

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notification. Section 19 of the existing Act is more or less similar to the proposed clause 72. Under the old Act, the two categories of cases, which I have mentioned in my amendment, were exempted. Therefore, after item (xx), I want the following to be inserted as item (xxi), viz., 'copies or documents chargeable under Articles 5, 6, 7 and 9 of the Second Schedule and furnished by civil or criminal courts or revenue courts or offices, for the private use of persons applying for them'. Sir, we have already passed clause 4, which says 'No document which is chargeable with fee under this Act shall be filed, exhibited or recorded in, or be acted on or furnished by any court . . .'. Suppose a copy of a decree is sought to be obtained for the private use of a person. If it is not exempted as suggested by me, then when granting certified copies of decrees and judgments, the court would insist upon paying court-fee under Articles 5, 6, 7 and 9 of the Second Schedule. Therefore these documents and copies should be exempted from payment of the fee. Certified copies of decrees, judgments and similar documents may subsequently be used in a court of law. Then they may be charged with court fees. Therefore, I have introduced a proviso: 'Provided that nothing in this clause shall apply to copies or documents, when filed, exhibited or recorded in any court of justice or received by any public officer'. Under the existing law, these copies and documents are exempted by a notification. I want these things to be included in the Act itself. Otherwise, when the court grants copies of decrees and judgments, they will insist upon paying court-fees in the light of clause 4 which we have already passed.

"I also want the following to be added as item (xxii): 'applications for the return of documents filed in any civil or criminal court or revenue court or public office'. Such applications are exempted under the existing Act. A large number of documents are filed in cases and when return petitions are filed, no court-fee is affixed to such applications. I want this to be exempted under the Act itself, not by a separate notification. I am aware that the Government may remit or reduce the fee payable by a notification under clause 73."

THE HON. SRI C. SUBRAMANIAM:—"Sir, I wish to draw the attention of the hon. Member to clause 83 under which the rules and notifications now in force are being kept alive."

* SRI P. K. GOPALAKRISHNAN:—"Sir, my amendment seeks to include the following items, viz., (i) application by a tenant for fixation of fair rent under the Malabar Tenancy Act, 1929 and (ii) application by a worker for the payment of money due by a factory management to the applicant under the Payment of Wages Act. Apart from them, certain other items, which have been suggested in the amendments given notice of by the hon. Members Sri M. Kalyanasundaram and Sri S. Ramalingam may also be accepted. Tenants who file applications for fixation of fair rent want to get justice and if they are asked to pay 12 annas or one rupee, they may be put to considerable hardship. After all, a worker may be getting 12 annas or 14 annas or one rupee as his wage for a day. If

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he is asked to pay one rupee when submitting an application under the Payment of Wages Act for the payment of money due by a factory management, it will be a heavy amount for him. Again, Harijans are given facilities and legal aid so far as criminal cases are concerned. In civil suits also such facilities should be given to them. Harijans who go to civil courts for getting justice should be given exemption from payment of fees and they should be supplied with copies of whatever documents they want, free of cost. These items should necessarily be exempted. Though the Government have power to remit or reduce the fees chargeable by a notification under clause 73, I wish to suggest that these items should be exempted under the Act itself."

12-17 P.m. SRI M. KALYANASUNDARAM :—"கனம் சபாநாயகர் அவர்களே, நான் சொடுத்திருக்கக்கூடிய திருத்தங்களாவன :

'Add the following item :—

"(xi) Any statement or document filed by an accused in a criminal case.

(xii) Plaints or written statements or other documents filed by a member of Scheduled Castes or Scheduled Tribes in any Court of Law."

இவ்விரண்டு திருத்தங்களும் மிகவும் முக்கியமானவை. கிராமங்களிலிருக்கக்கூடிய மக்களுக்கு கோர்ட்டு விஷயங்கள் தெரியாத காரணத்தால் அங்குள்ள நாட்டாண்மைக்காரர்கள், கிராம வக்கீல்கள், இடைத் தரசர்கள் ஆகியவர்களை நம்பி ஏமாந்துபோகக்கூடியவர்களாக இருக்கிறார்கள். அவர்கள் விஷயத்தில் சலுகைகாட்டி அவர்களுக்காவது கோர்ட்டு செலவைக் குறைக்கவேண்டும். சர்க்கார் வசூலிக்கக்கூடிய கட்டணத்தில் அவர்களுக்கு எவ்வளவு சலுகை காட்டவேண்டுமோ அவ்வளவு சலுகை காட்டவேண்டும் என்பதற்காகத்தான் மேற்படி திருத்தங்களைக் கொடுத்திருக்கிறேன். அவ்விரண்டு திருத்தங்களையும் சர்க்கார் ஏற்றுக்கொள்ளவேண்டுமென்று கேட்டுக்கொள்ளுகிறேன்."

SRI E. T. KUNHAN :—"മിസ്റ്റർ സ്പീക്കർ, സർ, സമാധ്വ ക്ലയാണസുന്ദരം അവതരിപ്പിച്ചിട്ടുള്ള ഭേദഗതി അതിപ്രധാനമായ ഒന്നാണ്. ഹരിജനങ്ങളുടെ പേരിൽ പലവിധത്തിലുള്ള കേസുകൾ കൊടുത്തു അവരെ ബുദ്ധിമുട്ടിക്കുന്നുണ്ട്. എന്നാൽമല്ല ഹരിജനങ്ങൾ അങ്ങോട്ടും കേസു കൊടുക്കേണ്ടതുണ്ട്. ചലാഹരണം പറയുകയാണെങ്കിൽ ചലബാറിൽ ഇന്ന് ഹരിജനങ്ങളുടെമേൽ എത്രയോ മട്ടനങ്ങൾ ഉണ്ടായിരിക്കാണ്ടിരിക്കുന്നു. നാട്ടിൽപ്രചലനമായിട്ടുള്ള ആളുകൾ ഹരിജനങ്ങളെ മട്ടിക്കുമ്പോൾ കോടതിൽ പോയി നീതി സമ്പാദിക്കാമെന്നു പക്ഷാൽ അതിന്നു സാധ്യമല്ലാത്തമട്ടിൽ അത്രയ്ക്കു വമ്പിച്ച ഫീസ്സാണ് ഇന്ന് ചുമത്തിയിരിക്കുന്നത്. അന്യായ ബോധിപ്പിക്കുന്നുള്ള ചെലവു മാത്രമല്ല, അതു കഴിഞ്ഞാലും എത്രയോ ഇനം ചെലവുകൾ ചെച്ചേണ്ടിയിരിക്കുന്നു. അന്യായത്തിന്റേറയം ഹരജിയുടേയൊ ഒരു പക്ഷെ വേണമെങ്കിൽ കടലാസ്സ് പായെ ന്നിന്ന് 10 ബ. വീതം സ്റ്റാമ്പ് വരുന്നുണ്ട്. കടലാസ് ചെലവാക്കുന്നതരനെ ന്യായ മായിട്ടല്ല ഇടവിട്ട് നീട്ടി എഴുതി ഒരു കടലാസിലെഴുതാനുള്ളത് നല്ല കടലാസി ലാക്കി എഴുതുന്ന സമ്പ്രദായമാണ് ഇന്ന് നടക്കുന്നത്. ഇങ്ങനെ എത്രയോ ഇനം ചെലവു കളഭ്ട്. ഹരിജനങ്ങളെ കോട്ട്ഫീസ്സ് കൊടുക്കുന്നതിൽനിന്നും രഹിവാക്കിയില്ലെങ്കിൽ ഹരിജനങ്ങൾക്കു കോടതിയിൽ പോകുവാനോ ആക്ഷേപം കൊടുക്കുവാനോ സാധ്യമല്ലെന്നുവരും. അതുകൊണ്ടു ഹരിജനങ്ങളെ കോട്ട് ഫീസിൽനിന്നു രഹിവാക്കണമെന്നുള്ള ഈ ഭേദഗതിയെ ഞാൻ ശക്തിയായി പിന്താങ്ങുന്നു.

"മററൊന്നുകൂടി പറഞ്ഞുകൊള്ളട്ടെ. ഇന്ന് പഞ്ചായത്തു കോട്ട്കളിൽ ഒരു തീപ്പുണ്ടായാൽ അതിന്മേൽ അപ്പീൽ കൊടുക്കാൻ ഫൈനക്കോട്ടിൽ പോകേണ്ടിയിരിക്കുന്നു. പഞ്ചായത്തു കോടതികളിൽനിന്നു ഹരിജനങ്ങൾക്കു പലപ്പോഴും നീതി ലഭിക്കുന്നില്ല.

31st March 1955] [Sri E. T. Kunhan]

സ്വല്പം വച്ചുകൊണ്ടു് ദോഹകരമായി വിധിക്കുകയാണെങ്കിൽ പാവപ്പെട്ട ഹരിജനങ്ങൾക്കു് ഹൈക്കോട്ടിൽചെന്നു കര അപ്പീൽ കൊടുക്കാൻ സാധ്യമല്ല. അതുകൊണ്ടു് മുൻസിഫ് കോടതികൾക്കും സെസ് കൗൺ കോടതികൾക്കും പഞ്ചായത്തുകോട്ടീതിൻ വിധിയിന്മേൽ അപ്പീൽ കൊടുക്കുവാൻ അധികാരം കൊടുക്കുന്നതു വളരെ ഉപകാരമായിരിക്കും. അതുകൂടെ ചെയ്യണമെന്ന ഈ അവസരത്തിൽ അപേക്ഷിക്കുകാമെന്നു്.”

SRI S. S. KOLKEBAIL :—“ Sir, I fully endorse the amendment moved by my hon. Friend, Sri P. Rangaswamy Reddiar. Exemptions under clause 72 should be granted not only with regard to vakalatnama and memorandum of appearance filed but with regard to bail bonds also. 12-20 p.m.

“ However, I oppose one of the amendments moved by the hon. the Deputy Leader of the Opposition to the effect that exemption should be granted with regard to plaints or written statements or other documents filed by a member of Scheduled Castes or Scheduled Tribes in any Court of Law. So far as our Courts of Law are concerned they are not ‘contaminated by considerations of caste, community, etc.’ Exemption for payment of court-fees by certain classes or communities is really unnecessary. Such a provision if introduced will be against the fundamental principles of jurisprudence. So, Sir, I oppose that amendment.”

SRI T. C. NARAYANAN NAMBIAR :—“ Sir, I rise to support the amendment moved by hon. Friend, Sri P. Rangaswamy Reddiar, and supported by hon. Member, Sri S. S. Kolkebil. Sir, item (ii) of clause 72 says : ‘ memorandum of appearance filed by advocates’ I wish to point out to the Hon. Minister that in mufassal areas there are very few advocates available. If any person, even though he has passed B.A. and B.L., examinations, wants to enrol himself as an advocate he will have to pay Rs. 700 (Interruption.) I speak, Sir, subject to correction. There are very many good pleaders who argue cases very well even though they may not have enrolled themselves as advocates. Apart from these vakils or pleaders, there are other persons also who appear before criminal courts, and argue cases either on behalf of the accused or on behalf of the plaintiff. I know there is one such person in Cannanore who appears before the Magistrate’s Court regularly in many criminal cases and he is very successful in his profession. Therefore, my humble submission is that there should not be any distinction made with regard to memorandum of appearance filed by advocates or vakils or other agents entitled to appear before criminal courts. As a matter of fact, I know they argue for even eight annas or four annas. I have myself given four annas in some cases and in some cases even two annas. I submit sincerely, Sir, that they appear on behalf of poor people and Harijans for four annas or two annas. We must see that people are able to get redress in a Court of Law with as little expenditure as possible.

“ Again, Sir, with regard to the amendment moved by hon. Member, Sri M. Kalyanasundaram, I have to say this. We do not want to introduce the caste system or the communal principle in courts. We plead for members of Scheduled Castes and Scheduled

[Sri T. C. Narayanan Nambiar] [31st March 1955]

Tribes because economically they were 'oppressed, suppressed and repressed for ages to come.' There may be among them 00000000009 per cent who are well-to-do. What we want is that their economic condition should be taken into account. Hon. Member Sri M. Kalyanasundaram, has moved his amendment in the best interests of the poor people so that 'justice may come within their reach.' "

SRI S. RAMALINGAM :—"கனாஸ் 72-க்கு நான் கொடுத்திருக்கும் திருத்தமாவது :

'Add the following new item :—

"(xxi) petitions, affidavits, exhibits and all other documents filed by or on behalf of an accused in any criminal court.' "

இது ரொம்ப சாதாரணமான திருத்தமாகும். ஏற்கெனவே சர்க்கார் இந்தக் கொள்கையை ஓரளவு ஒத்துக்கொண்டிருக்கிறார்கள். அதாவது இந்த ஷரத்தின் 2-வது உப-பிரிவில் 'memorandum of appearance filed by advocates when appearing for persons proceeded against in criminal cases' என்று சொல்லப்பட்டிருக்கிறது. ஒரு க்ரிமினல் கேசில் சம்பந்தப்பட்டு குற்றவாளி என்று கருதப்பட்டிருக்கக்கூடியவனுக்கு ஆஜராகக்கூடிய வக்கீல்கள் வகாலத்துக்காக நிர்ணயிக்கப்பட்டிருக்கக் கூடிய ஒரு ரூபாய் கட்ட வேண்டியதில்லை. சப்-ஜெயிலிலிருந்து விடுதலை பண்ணியவன் பெயில் பாண்டுக்கு கோர்ட்டு கட்டணத்திற்கான ஸ்டாம்பு ஒட்ட வேண்டியதில்லை என்று போட்டிருக்கிறார்கள். அது ரொம்ப நியாயமானது. அதேபோல குற்றவாளி என்று கருதப்பட்ட ஒருவனுக்கு நியாயம் தேடிக்கொள்வதற்கு, கோர்ட்டு நடவடிக்கை எடுத்துக்கொள்வதற்கான வசதிகள் பூராவும் சர்க்கார் கொடுக்க வேண்டியது நியாயம். அவர்களுடைய நியாயத்தை எடுத்துச் சொல்லுவதற்கு கொடுக்கக்கூடிய பெடிஷன்கள், அபிடவிட்டுகள், எக்ஸிபிட்கள், இன்னும் இதர டாகுமெண்டுகள் ஆகியவைகளை கோர்ட்டில் சமர்ப்பிக்கும்போது அவைகளுக்குக் கட்டணம் வசூலிக்கக்கூடாது என்று என்னுடைய திருத்தம் கோருகிறது. சர்க்கார் அதை ஏற்றுக்கொள்ளுவார்கள் என்று நம்புகிறேன்."

*** THE HON. SRI C. SUBRAMANIAM :—**"Sir, the Communist Party has attempted to bring in labour legislation and then social legislation as far as members of Scheduled Tribes and Scheduled Castes are concerned, and naturally do some propaganda on that front even in considering the Court Fees Bill. Otherwise, I do not really understand the purpose of the amendment. The amendment says that for plaints or written statements or other documents filed by a member of Scheduled Castes or Scheduled Tribes in any Court of Law no court-fee need be paid. Suppose, Sir, a member of Scheduled Castes is a money-lender. He lends money and subsequently files a suit for the recovery of the same. If the amendment were to be accepted, no court-fee should be levied even in respect of this item. I can understand, Sir, if it is stated that poor people should be exempted. There are persons like Sri Sivashanmugam Pillai, Sri B. Parameswaran and Sri Nanjappa who are rich enough."

MR. SPEAKER :—"If the Hon. Minister wants, let him cite Sri B. Parameswaran and not cite the Chair."

THE HON. SRI C. SUBRAMANIAM :—"That is why, I am saying, Sri Sivashanmugam Pillai and not the Hon. the Speaker. (Laughter.) The Communist Party want to do some propaganda

31st March 1955] [Sri C. Subramaniam]

saying that hon. Member, Sri M. Kalyanasundaram, brought forward an amendment with reference to giving exemption from payment of court-fees to members of Scheduled Castes and Scheduled Tribes and that the Hon. the Leader of the House belonging to the Congress Party opposed it. This amendment is not a reasonable amendment. I should say it is an unreasonable amendment. Simply to say that the Government opposed giving exemption from paying court-fees to members of Scheduled Castes and Tribes, this amendment has been brought forward. The Government have taken powers in clause 73 to exempt in all cases which are reasonable from payment of court-fees. As far as I am concerned, I am in charge of 'Court-Fees' and with regard to the policy to be adopted by the various departments, the departments concerned will take into consideration the various aspects and make recommendations to the Government and the latter will then take a decision whether more exemption should be granted by notification provided for under clause 73. This is not the place to consider the various policies with regard to labour legislation, with regard to awards given by various Labour Tribunals, with regard to giving exemption to members of Scheduled Castes and Tribes and all that. Certainly this is not the place and time where we can discuss all these things.

"That is why Sir, even though the amendment refers to Scheduled Castes and Scheduled Tribes, I have to oppose it; I have to oppose it even though they may exploit this opposition of mine. 12-30 P.M.

"Then with reference to Mr. Rangaswamy's amendment, regarding addition of 'pleaders', I am accepting it, because otherwise that will create anomalies; even though pleaders are limited in number, so that there need not exist any anomaly I am accepting it.

"With reference to other persons who are authorised to appear in criminal cases under the Criminal Procedure Code, I am sorry I am not prepared to accept that suggestion. As Mr. Kurup said, it will be dangerous to allow these persons and even good cases may be spoilt by them.

"Under these circumstances, I am not prepared to accept that suggestion. We are taking powers under clause 73 to exempt and under 83 we provide that all the existing notifications would be kept alive till further notifications are issued under this Act. If hon. members go through the notifications already existing, they will know that most of the items referred to by them are already exempted. At least lawyer members will know. Therefore, it is not necessary to increase further the exemptions. I am opposing all the other amendments."

SRI S. RAMALINGAM:—"What about my amendment?"

* THE HON. SRI C. SUBRAMANIAM:—"I am strongly opposing it."

SRI S. S. KOLKEBAIL:—"What about bail bond from the accused?"

[31st March 1955]

SRI M. KALYANASUNDARAM :—“ நிதி மந்திரி அவர்கள், ‘நான் திருத்தங்களை ஆட்சேபிக்கிறேன்’ என்று சொல்லி அவருடைய பேச்சை முடித்துக்கொண்டிருந்தால் நான் இப்பொழுது பேச வேண்டிய அவசியமே இருந்திருக்காது. அனாவசியமாக நிதி மந்திரி அவர்கள் கம்யூனிஸ்டுக் கட்சியை இழுத்து வைத்ததினால்தான் நான் இரண்டொரு வார்த்தைகள் சொல்லவேண்டியிருக்கிறது. ‘காமாலைக் கண்ணுக்கு கண்டதெல்லாம் மஞ்சளாகத் தெரியும்’ என்று சொல்லுவார்கள். அதுபோல நம்முடைய நிதி மந்திரி அவர்களுக்கு எப்பொழுது பார்த்தாலும் நாங்கள் கொண்டுவரும் திருத்தங்களெல்லாம் அரசியல் பிரசாரத்திற்கென்றே தோன்றுகிறது. எப்படியாவது தொழிலாளிகளுக்கும் விவசாயிகளுக்கும் ஒரு பரிசாரம் ஏற்படவேண்டும் என்பதற்காகத்தான் திருத்தங்கள் கொண்டுவந்தோம். ஆனால் மந்திரி அவர்கள் அந்தத் திருத்தங்களை எதிர்க்கக்கூடிய வேகத்தில், ‘ஹரிஜனங்களிலேகூட கடன் கொடுப்பவர்கள் இருக்கிறார்களே’ அவர்களுக்குக் கூட கோர்ட்டு கட்டணத்திலிருந்து விதி விலக்கு கேட்கிறார்களே’ என்று பேசுகிறார். கனம் நிதி மந்திரி அவர்கள் கிராமத்தைவிட்டு அதிக காலம் ஆகிவிட்டதென்று நினைக்கிறேன். அதனால்தான் அவர்களுக்கு அதிகமாகத் தெரியவில்லை என்று நினைக்கிறேன். ஹரிஜனங்களிலும் கடன் கொடுக்கிறவர்கள் இருக்கலாம், இல்லையென்று நான் சொல்லவில்லை. தாங்கள் சேமித்தவைத் தொகையை அங்குள்ள பெரியதனக்காரர்களிடத்திலே கொடுத்துவிட்டு நிற்கிற ஹரிஜனங்கள் பலர் இருக்கிறார்கள். எதோ நிலத்தில் சமாராக விளைந்தால் 100, 200 ரூபாய் மிச்சம் பிடித்திருக்கலாம். அதைப் பெரியதனக் கவண்டிகளை நம்பிக்கொடுத்துவிட்டு மோசம் போய்விட்டால் அவர்கள் கோர்ட்டுக்குப்போக வேண்டியிருக்கும். அப்படிப்பட்டவர்களையும் கோர்ட்டு கட்டணம் செலுத்தவேண்டும் என்று சொல்வது கூடாது. கோர்ட்டு கட்டணத்திலிருந்து அவர்களுக்கு விலக்கு அளிக்கவேண்டும். கிராமங்களிலுள்ள பெரியதனக்காரர்களிடத்தில் தாங்கள் கொஞ்சம் கொஞ்சமாக மிச்சம் பிடித்துச் சேமித்த பணத்தைக்கொடுத்துவிட்டு அதைத் திரும்பப் பெறமுடியாமலிருப்பவர்களை, ஏழை மக்களைப் பெரியதனக்காரர்களிடமிருந்து பாதுகாக்கவேண்டுமென்பதற்காகத்தான் நான் திருத்தங்களைக் கொண்டுவந்திருக்கிறேனேதவிர, இதில் அசங்ஙயப் பிரசாரத்திற்கு எதுவும் இல்லை. அரசியல் பிரசாரத்திற்காக இதை உபயோகப்படுத்த வேண்டிய அவசியமும் எங்களுக்கு இல்லை. எனினன்றால், காங்கிரஸ் கொள்கைகளும் திட்டங்களும் எங்களுக்குப் போதுமானது. அப்படிப்பட்ட நிலைமையிலே நம்முடைய மந்திரி சபை திட்டங்களை வகுக்கும் என்று நிச்சயமாக நம்பிக்கை உண்டு. ஆகவே, பிரசாரத்திற்கு கையில் சரக்கு இல்லை என்று எந்தக்காலத்திலும் இல்லை.”

* **THE HON. SRI C. SUBRAMANIAM** :—“ The results of such propaganda are well evident, Sir.”

SRI S. RAMALINGAM :—“ நான் கொடுத்த திருத்தத்தை கனம் நிதி மந்திரி அவர்கள் ‘ரொம்ப கடுமையாக ஆட்சேபிக்கிறேன்’ என்று சொன்னார்கள். குற்றவாளிகள் என்று கருதப்பட்டு ஸப்-ஜெயிலில் இருப்பவர்கள் பெடிஷன்கள், அபிடவிட்டுகள் கோர்ட்டில் தாக்கல் செய்ய வேண்டுமென்றால், அவர்களுக்கு ஏதாவது சலுகை காண்பிக்கவேண்டும் என்பதற்காகத்தான் நான் திருத்தம் கொடுத்திருக்கிறேன். ஆனால், அதை ‘ரொம்ப கடுமையாக ஆட்சேபிப்பதாக’ நிதி மந்திரி அவர்கள் சொல்கிறார்.”

* **THE HON. SRI C. SUBRAMANIAM** :—“ They can be included in the notification.”

SRI E. T. KUNHAN :—“ മിസ്റ്റർ സ്പീക്കർ, സർ, ബഹുമാനപ്പെട്ട മന്ത്രി, സ്പീക്കർ ശ്രീ ശിവകുമാർ, പിള്ളയയും ശ്രീ നമ്പൂയ്യറയും ഉദാഹരണമായി എടുത്തുകൊണ്ടു ധര്മജനങ്ങളിൽ പങ്കെടുക്കണമെന്നു പറയുകയുണ്ടായി. മലബാർ ന്യൂനമാന്ദ്യത്തിൽ ഇങ്ങനെ രണ്ടു ധര്മജനങ്ങളെമാത്രമേ ബഹുമാനപ്പെട്ട മന്ത്രി കണ്ടിട്ടുള്ളൂ. ഈ രണ്ടു

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[Sri E. T. Kunhan]

പേരുകൾ ഹിസ്റ്ററി കഴിവാക്കിയാലും ഈ രാജ്യത്തു ലക്ഷക്കണക്കിനുള്ള ഹരിജനങ്ങൾ കോട്ടഹിസ്റ്ററി കൊടുക്കാൻ നിവൃത്തിയില്ലാത്തവരാണെന്നു ആകാംബ അറിഞ്ഞുകൊള്ളാത്തതു്? ഇതൊന്നും ഒരു ശരിയായ സമാധാനമല്ല. ഹരിജനങ്ങളെ ഈ ഹിസ്റ്ററിയിൽനിന്നു കഴിവാക്കണമെന്നുള്ള ദോഷാതി സചികരിച്ചേ മതിയാവൂ എന്നു ആൻ വീണ്ടും അഭിപ്രായപ്പെട്ടു കൊള്ളുന്നു. ”

* SRI P. RANGASWAMY REDDIAR :—“ Sir, in amendment No. 297, I have proposed to include new items. The word used in clause 4 which we have already passed is ‘furnished by’. On certified copies of decrees or judgments, when the court furnishes them the court insists upon payment of court fees under clauses 5, 6 and 7 of the Second Schedule. But clause 83 says, ‘until rules are framed under sections 80, 81 and 82 and until notifications are issued under section 73, the rules and notifications now in force in respect of matters referred to in those sections, etc.’ Mark the word ‘in respect of matters’. But no matter is referred to in section 73. Clause 73 simply says, ‘the State Government may, by notification, reduce or remit in the whole or in any part of the territory of this State, all or any of the fees chargeable under this Act, and may, in like manner, cancel or vary such notification.’ Therefore, no specific matter is referred to . . . ”

THE HON. SRI C. SUBRAMANIAM :—“ The entire matter is referred to.”

* SRI P. RANGASWAMY REDDIAR :—“ In day-to-day actual practice, innumerable difficulties would arise. At least item (xxi) may be added, wherein I have also added a proviso to ‘safeguard the interests of revenue of the Government.’ ”

MR. SPEAKER :—“ The question is—

“Add at the end the following as item (xxi) :—

“(xxi) any application by a worker for payment of claims from his employer due under an award of an Industrial Tribunal.” ”

The amendment was lost.

MR. SPEAKER :—“ The question is—

‘Add the following items :—

“(xxi) Any statement or document filed by an accused in a criminal case;

“(xxii) Plaints or written statements or other documents filed by a member of Scheduled Castes or Scheduled Tribes in any Court of Law;

“(xxiii) Copy of any document connected with the case applied for by an accused in a criminal case;

“(xxiv) Copy of any document applied for by a member of Scheduled Caste or Scheduled Tribe in any case whether civil or criminal wherein he is a plaintiff or a defendant ” ”

The amendment was lost.

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SRI S. RAMALINGAM :—“ I am not pressing my amendment, as the Hon. Minister has said that he would include it in the notification.”

The amendment No. 190 was, by leave, withdrawn.

MR. SPEAKER :—“ The question is—

‘ Add the following items :—

“ (xxi) application by a tenant for fixation of fair rent under the Malabar Tenancy Act, 1929;

(xxii) application by a worker for the payment of money due by a factory management to the applicant under Payment of Wages Act ”.’ ”

The amendment was lost.

MR. SPEAKER :—“ The question is—

‘ After item (xx), insert the following items :—

“ (xxi) copies of documents chargeable under Articles 5, 6, 7 and 9 of the Second Schedule and furnished by civil or criminal courts or Revenue courts or offices, for the private use of persons applying for them :

Provided that nothing in this clause shall apply to copies or documents, when filed, exhibited or recorded in any court of justice or received by any public officer;

(xxii) applications for the return of documents filed in any civil or criminal court or revenue court or public office ”.’ ”

The amendment was lost.

MR. SPEAKER :—“ The question is—

‘ In item (ii), after “ by Advocates ”, insert “ or Pleaders ”.’ ”

The amendment was carried.

MR. SPEAKER :—“ The question is—

‘ In item (xx), after the words “ Court of Wards ”, insert the words “ when presented to any superior officer or Government.” ’ ”

The amendment was carried.

MR. SPEAKER :—“ The question is—

‘ That clause 72 as amended stands part of the Bill ’.”

Clause 72, as amended, was put and carried.

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Clauses 73 to 77.

MR. SPEAKER :—“ I will put clauses 73 to 77 both inclusive, to the vote of the House. There are no amendments. The question is—

‘ That clauses 73 to 77 stand part of the Bill.’ ”
The motion was carried.

Clause 78.

MR. SPEAKER :—“ The question is—

‘ That clause 78 do stand part of the Bill ’ ”.

12-40
p.m.

SRI P. K. GOPALAKRISHNAN :—“ I beg to move—

‘ In line 4, for the word “ may ”, substitute the word “ shall ”.’ ”

The amendment was duly seconded.

* SRI P. K. GOPALAKRISHNAN :—“ Though my amendment is a verbal one, it is an important amendment. In case of damaged or spoiled stamps, if they are produced and if the Collector is satisfied about their genuineness, he *may* pay the amount. That is what is stated in this clause. When the Collector is satisfied about the genuineness of the case, it is fair that there should be a provision that the Collector *shall* pay the amount when the damaged stamp is produced.”

* THE HON. SRI C. SUBRAMANIAM :—“ ‘ May ’ means ‘ shall ’. I do not think any change is necessary. It is stated in the clause ‘ provided that in all cases where money is paid in cash, a deduction shall be made of one anna for each rupee ’, etc. Therefore, when conditions are satisfied, the officer is bound to pay the amount. I do not think the amendment is necessary.”

* SRI P. K. GOPALAKRISHNAN :—“ It is stated in the clause ‘ after satisfying himself about their genuineness ’. In such a case, what is the objection for the word ‘ shall ’ to be there instead of ‘ may ’? ”

THE HON. SRI C. SUBRAMANIAM :—“ ‘ May ’ is the proper word. It means ‘ shall ’.”

* SRI P. K. GOPALAKRISHNAN :—“ If the word ‘ may ’ is there, there is a discretion left to the Collector. He may or may not pay. But if the word ‘ shall ’ is there, it will be obligatory on the part of the Collector to pay the amount.”

THE HON. SRI C. SUBRAMANIAM :—“ I am sorry I am unable to accept the amendment of the hon. Member Sri Gopalakrishnan.”

MR. SPEAKER :—“ The question is—

“ In line 4, for the word “ may ” substitute the word “ shall ”.’ ”

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The amendment was put and lost.

Clause 78 was put and carried.

Clause 79 was put and carried.

Clause 80.

MR. SPEAKER :—" The question is—

‘ That clause 80 do stand part of the Bill ’. ”

SRI S. S. KOLKEBAIL :—" I beg to move—

‘ In clause 80 (1) (d) for the word “ English ” in line 1, substitute the word “ Hindi ”, and for the words “ in the local language or languages ” occurring in line 2, substitute the words “ in the State language and local languages ’.

In clause 80 (2), after the words “ Fort St. George Gazette ” in line 3, add the words “ and after placing them on the table of the House for a period of one month ”. ’ ”

The amendments were duly seconded.

SRI S. S. KOLKEBAIL :—" Clause 80 (d) says ‘ the display in each court of a table in the English and in the local language or languages showing the fees payable for the service and execution of processes. ’ My first amendment seeks to drop the word ‘ English ’. Under the Constitution we are told that English should be replaced within a period of fifteen years. Still if we stick on to the word ‘ English ’ in the laws which are being passed and which we are going to pass, I am afraid, we are not going to replace English at all. That is why I say that instead of the word ‘ English ’ the word ‘ Hindi ’ and instead of the words ‘ in the local language or languages ’ “ in the State language and local languages ’ should be substituted. That will be quite consistent with the Constitution. So, I think there will be no objection by the Government for accepting this amendment of mine.

“ With regard to my other amendment, clause 80 states that the rules shall be subject to confirmation by the State Government. I want to add ‘ after placing them on the table of the House for a period of one month ’. This is a reasonable amendment. In most of the Acts which we are passing, now-a-days we are having a clause like this. At the Select Committee stage I think it must have been either forgotten or left out.”

THE HON. SRI C. SUBRAMANIAM :—" It was not forgotten. It was considered.”

SRI S. S. KOLKEBAIL :—" This is an important point. Any rules the Government are going to notify must be placed on the table of the House. Otherwise, there is no meaning. Recently we have constituted a committee called Subordinate Legislation

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Committee. That Committee gets power to review these rules only if they are placed on the table of the House. Otherwise, the Committee cannot review the rules and report to this House. Naturally, the executive will take more powers than what is exactly intended by the Legislature. So, I do not think there will be any objection by the Government to accept this amendment also."

* THE HON. SRI C. SUBRAMANIAM :—" Sir, clause 80 relates to the power of the High Court to make rules. I do not think there is any necessity to place the rules on the table of the House and then give effect to them. Therefore, I oppose the amendment."

SRI S. RAMALINGAM :—" If the rules are placed before the House, there will be an opportunity for discussion,"

* SRI M. NARAYANA KURUP :—" If the Hon. Minister says that it is more out of respect to the High Court, I can understand . . . It is a matter subject to confirmation of the Government. Otherwise, we would have left the judiciary completely independent. Inasmuch as the Government is concerned in the matter and naturally we have a committee to go into delegated legislation and it has become invariably the accepted practice to place the rules before the House, I think the Government will accept the amendment."

MR. SPEAKER :—" The question is—

' In clause 80 (1) (d), for the word "English" in line 1, substitute the word "Hindi", and for the words "in the local language or languages" occurring in line 2, substitute the words "in the State language and local languages." ' "

The amendment was put and lost.

MR. SPEAKER :—" The question is—

' In clause 80 (2), after the words "Fort St. George Gazette" in line 3, add the words "and after placing them on the table of the House for a period of one month." ' "

The motion was declared lost.

As a poll was demanded, the Division bell was rung.

SRI S. S. KOLKEBAIL :—" Sir, we are not pressing for a division."

The amendment was put and lost.

Clause 80 was put and carried.

Clause 81.

MR. SPEAKER :—" The motion is—

' That clause 81 do stand part of the Bill.' "

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-52-50 SRI S. S. KOLKEBAIL :—" I move the following amend-
 1-p.m. ment :—

' In sub-clause (2), after the words " and on such publication " add the following words :—

" and after placing the same on the table of the House for a period of one month." " "

The amendment was duly seconded.

* SRI S. S. KOLKEBAIL :—" The Hon. Minister has stated that he will accept my amendment to clause 82. But I am afraid there may not be any rules at all under clause 82. The most important rules have to be framed by the Board of Revenue. Those rules have to be confirmed by the Government. If those rules are not to be placed on the table of the House, virtually we are abdicating our rights to the Government. Then, they will have the right to legislate on these important points. So, I submit that the rules framed under this clause should be placed on the table of the House."

* THE HON. SRI C. SUBRAMANIAM :—" It is not a question of my refusing to place the rules on the table of the House. I can assure the hon. Member that every rule framed will be placed on the table of the House. The only thing is it need not be further scrutinised because this concerns routine matters like getting records, when they can be destroyed, etc.

" As far as clause 82 is concerned, I have already said that I am agreeing to the amendment."

SRI S. RAMALINGAM :—" Under clause 81, the Board of Revenue can frame rules regarding the fees chargeable for serving and executing processes issued by the Board of Revenue and by the Revenue Courts. These are all important matters."

The amendment was put and lost.

Clause 81 was put and carried.

Clause 82.

MR. SPEAKER :—" The motion is—

' That clause 82 do stand part of the Bill.' "

SRI S. S. KOLKEBAIL :—" Sir, I move the following amendment :—

' Renumber clause 82 as clause 82 (1) and insert the following as sub-clause (2) :—

" (2) All notifications and orders made under this Act shall, as soon as possible, after they are made, be placed on the table of the Legislative Assembly for one month, and shall be subject to such modification whether by way of repeal or amendment as the Legislative Assembly may make during the session in which they are so laid, and such rules and notifications shall have the force of law only after the above period lapses and not till then." " "

The amendment was duly seconded.

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THE HON. SRI C. SUBRAMANIAM :—“ I accept the amendment subject to the following modifications :—

‘ For the words “ notifications and orders ”, the words “ notifications and rules ” be substituted.

Delete the words “ and such rules and notifications shall have the force of law only after the above period lapses and not till then.” ’ ’ ’

The Government amendments were put and carried.

The amendment of Sri Kolkebil, as amended, was put and carried.

Clause 82, as amended, was put and carried.

Clauses 83 to 87 were put and carried.

SCHEDULE I.

MR. SPEAKER :—“ The motion is—

‘ That Schedule I do stand part of the Bill.’ ”

SRI M. NARAYANA KURUP :—“ I move the following amendment :—

‘ For Article 1, substitute the following :—

“ 1. *Plaint or written statement pleading a set off or counter claim or memorandum of appeal presented to any Court—One anna per rupee.*” ’ ’ ’

The amendment was duly seconded.

SRI S. RAMALINGAM :—“ I move the following amendment :—

‘ For Article 1, substitute the following :—

“ 1. *On the amount or the value of the subject-matter in dispute—One anna in the rupee.*” ’ ’ ’

The amendment was duly seconded.

SRI M. KALYANASUNDARAM :—“ I move the following amendment :—

‘ In Article 1 (iii), for “ twelve annas ”, substitute “ eight annas ”.’ ’ ’

The amendment was duly seconded.

SRI P. K. GOPALAKRISHNAN :—“ I move the following amendment :—

‘ In Article 3, items (a) and (b), for the word “ one-half ” wherever it occurs, substitute the word “ one-fourth ”.’ ’ ’

The amendment was duly seconded.

MR. SPEAKER :—“ Schedule I as well as the amendments thereto are before the House for discussion.”

[31st March 1955]

* SRI M. NARAYANA KURUP:—"I thought that I would not have to move this amendment because this was closely inter-related to the principle of multiples fixed in the previous clause. I would not have moved it if it had been reduced. But inasmuch as it has not been reduced and since to-day the Hon. the Finance Minister seems to be rather in a conciliatory mood, I hope that something will be done."

THE HON. SRI C. SUBRAMANIAM:—"I may tell the Hon. Member that I have again got into a stiff mood." (Laughter.)

* SRI M. NARAYANA KURUP:—"By making a simple amendment, the law becomes simple, understandable and equitable. I need not make a long speech now. I hope this amendment will find acceptance and in a way retrieve the position, the stiff attitude taken by the Hon. Minister with regard to valuation."

SRI V. R. KRISHNA AYYAR:—"It is true that this affects every class of suit. But the substantial classes of suits are already covered. Therefore, this amendment would only ameliorate the hardship already caused and I also submit that this will make the calculation simple and at the same time very useful. Therefore this amendment may be accepted."

SRI M. KALYANASUNDARAM:—"நாங்கள் கொடுத்திருக்கும் இரண்டு திருத்தங்களும் மிகவும் முக்கியமானவை. தொழிலாளி யாராவது வேலையில்லிருந்து நீக்கப்பட்டால் கோர்ட்டில் கேஸ் தாக்கல் செய்து, தீர்ப்பு பெறவேண்டுமானால், தொழிலாளி கோர்ட்டு கட்டணம் செலுத்த வேண்டியிருக்கிறது. ஆகவே ஷரத்து 25-ல் ரூ. 400 என்பது குறிப்பிட்டிருப்பதற்குப் பதிலாக ரூ. 200 என்று மாற்றியமைக்க வேண்டுமென்று வற்புறுத்த விரும்புகிறேன்."

SRI S. RAMALINGAM:—"சொத்தின் மார்ட்டு மதிப்பு ரூ. 10,000-க்கு மேலே இருந்தால் கோர்ட்டு கட்டணம் கட்ட வேண்டியிருக்கிறது. இது மிகவும் அதிகமாக இருக்கிறது. இதற்கு கவர்னரின் அனுமதி கோரப்பட்டிருக்கிறதா என்று அறிய விரும்புகிறேன்."

MR. SPEAKER:—"We are now discussing only Schedule I."

SRI S. RAMALINGAM:—"Then, I request the Hon. the Finance Minister to accept the amendment."

1 p.m. * SRI P. K. GOPALAKRISHNAN:—"We want to find out whether the Government is taking a conciliatory attitude or not on this issue. We want to know whether Government would reduce the percentage from $7\frac{1}{2}$ per cent to at least $6\frac{1}{4}$ per cent, that is, one anna for every rupee. If Government do not accept the amendment to have the percentage fixed at $6\frac{1}{4}$ per cent, then that means Government are taking a stiff attitude. Further we will consider this Bill as a money Bill and as a taxation measure. In view of the conciliatory attitude that they have been taking with reference to money provisions in this Bill, I hope the Hon. Finance Minister will reduce the percentage from $7\frac{1}{2}$ per cent to at least $6\frac{1}{4}$ per cent. Even though we might have wished him to reduce it to 5 per cent at least we think he would accept the reasonable percentage of $6\frac{1}{4}$ per cent."

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SRI T. C. NARAYANAN NAMBIAR:—"When the Hon. Finance Minister speaks on the floor of the House, even though he is stiff to the hon. Members in the Opposition, he is very conciliatory towards the demands of the masses. Therefore I would suggest that the amendment fixing the percentage at $6\frac{1}{2}$ per cent may be accepted by him."

* THE HON. SRI C. SUBRAMANIAM:—"I am sorry I am not able to make any deduction. We have already considered this question. It is not a question of bargaining whether to have $7\frac{1}{2}$ per cent or $6\frac{1}{2}$ per cent. I do not think we could bargain like that. I have already reduced the amount from Rs. 400 to Rs. 300 in certain classes of suits. Thirty times the survey assessment of the land has been fixed as the fee in respect of land suits. Therefore I am sorry I cannot accept any of the amendments."

MR. SPEAKER:—"The question is—

'For Article 1, in Schedule I, substitute the following:—

"1. Plaint or written statement pleading a set off or counter claim or memorandum of appeal presented to any Court—One auna in the rupee." "

The amendment was put and declared lost. A poll was demanded and the House divided thus:

Ayes—23.

Sri S. Swayamprakasam.

" K. Vinayagam.

" E. L. Raghava Mudaliar.

" N. Ratna Gounder.

" P. Rangaswami Reddiar.

" T. Shunmugam.

" A. Govindasamy Nayagar.

" S. P. Thangavelu.

Dr. K. B. Menon.

Sri M. Narayana Kurup.

" K. T. Sreedharan.

" S. S. Kolkebail.

Sri M. Narayanan Nambiar:

" K. Moidu.

" M. Kalyanasundaram.

" T. C. Narayanan Nambiar.

" K. T. Raju.

" S. Ramalingam.

" V. R. Krishna Ayyar.

" P. K. Gopalekrishnan.

" N. Sivaraj.

" E. T. Kunhan.

" M. Manickasundaram.

Noes—34.

The Hon. Sri C. Subramaniam.

Sri K. Rajaram Naidu.

" B. Bhakthavatsalu Naidu.

" B. K. Nallaswami.

" N. Mounaguruswami Naidu.

" S. R. Arumugam.

" P. G. Manickam.

" M. S. Selvarajan.

" N. Ramakrishna Ayyar.

" O. Venkatasubba Reddi.

" M. R. Ramachandran.

" S. Panchaksharam.

" H. M. Jagannathan.

" A. Ramachandra Reddiar.

" R. Thangavelu.

" V. Muthu.

" S. Arumugam Pillai.

Sri O. Chergam Pillai.

" V. Krishnaswami Padayachi.

" K. Parthasarathy.

" M. Jagannathan.

" P. S. Krishnaswami Ayyangar.

" G. Govindan.

" AR. A. RM. Chokkalincam Chettiar.

" P. B. K. Rajachidambaram.

" J. L. P. Roche Victoria.

" P. Selvaraj.

" M. Chinnaiah Thevar.

" K. P. Kuttikrishnan Nayar.

" S. Somasundara Gounder.

" N. Gopala Menon.

" T. Manavalan.

" K. R. Viswanathan.

" M. Dharmalingam.

Ayes—23; Noes—34; Neutral—Nil.

The amendment was lost.

[31st March 1955]

1-10
a.m.

MR. SPEAKER :—" The question is—

' For Article 1, *substitute* the following :—

" 1. On the amount or the value of the subject-matter in dispute—One anna in the rupee." "

The amendment was put and lost.

MR. SPEAKER :—" The question is—

' In Article 1 (iii), for " twelve annas " *substitute* " eight annas " ' "

The amendment was put and lost.

MR. SPEAKER :—" The question is—

' In Article 3, items (a) and (b), for the word " one-half " wherever it occurs, *substitute* the word " one-fourth " ' "

The amendment was put and lost.

Schedule I was put and carried.

SCHEDULE II.

MR. SPEAKER :—" The motion is—

' That Schedule II do stand part of the Bill.' "

SRI P. K. GOPALAKRISHNAN :—" Mr. Speaker, I move the following amendments (157 to 172) standing in my name :—

' In Article 1 (i), for the word " Ten " *substitute* the word " Five " '.In Article 2, for the words " One rupee ", *substitute* the words " Eight annas ".In Article 7, item (a), for the word " Twelve ", *substitute* the word " Eight ".In Article 7, item (b), for the words " One rupee and eight annas ", *substitute* the words " One rupee ".In Article 7, line 12, column 3, for the word " Five ", *substitute* the word " Four ".In Article 8, item (b) for the word " Twelve ", *substitute* the word " Eight ".In Article 9, for the word " Twelve ", *substitute* the word " Eight ".In Article 10, item (a), for the word " Four ", *substitute* the word " Two ".In Article 10, item (b), for the word " Four ", *substitute* the word " Two ".

31st March 1955] [Sri P. K. Gopalakrishnan]

In Article 10, item (c), for the word "Twelve", substitute the word "Eight".

In Article 11, item (a), for the word "Four", substitute the word "Two".

In Article 11, item (d), for the word "Twelve", substitute the word "Eight".

In Article 11, item (e), for the words "One rupee", substitute the words "Eight annas".

In Article 11, item (s), for the word "Twenty-five", substitute the word "Twenty".

In Article 12, for the word "Twelve", substitute the word "Eight".

In Article 14, item (ii), for the word "Twelve", substitute the word "Eight".

SRI K. T. RAJU :—"I second the amendments, Sir."

SRI M. KALYANASUNDARAM :—"Mr. Speaker, I move the following amendments (262 to 271 and 273 to 278) standing in my name :—

'In Article 5, line 10, for "Eight annas", substitute "Four annas".

In Article 6, for "Eight annas", substitute "Four annas".

In Article 7 (a), for "Twelve annas", substitute "Eight annas".

In Article 10 (a), for "Four annas", substitute "Two annas".

In Article 10 (b), for "Four annas", substitute "Two annas".

In Article 10 (c), for "Twelve annas", substitute "Two annas".

In Article 10 (d), for "Four annas", substitute "Two annas".

In Article 10 (e), for "Four annas", substitute "Two annas".

In Article 11 (a), for "Four annas", substitute "Two annas".

In Article 11 (b), for "Four annas", substitute "Two annas".

In Article 14 (i), for "Four annas", substitute "Two annas".

In Article 14 (ii), for "Twelve annas", substitute "Two annas".

In Article 15, for "Twelve annas", substitute "Eight annas".

In Article 16 (i), for "One rupee and eight annas", substitute "Eight annas".

[Sri M. Kalyanasundaram] [31st March 1955]

In Article 16 (ii), for "Two rupees", substitute "Eight annas".

In Articles 16 (iii) and 16 (iv), for "Three rupees", substitute "One rupee".

SRI S. RAMALINGAM :—"I second the amendments, Sir."

SRI S. RAMALINGAM :—"Mr. Speaker, I move the following amendments (192, 193 and 196) standing in my name :—

'In Article 10 (a), for "Four", substitute "Two".

Omit "Article 10 (b), 10 (c) and 10 (d)".

In Article 11 (s), for "Twenty-five", substitute "Five".

SRI M. KALYANASUNDARAM :—"I second the amendments, Sir."

SRI T. C. NARAYANAN NAMBIAR :—"Mr. Speaker, I move the amendment (249) standing in my name, viz. :—

'For the words "Twenty-five rupees", substitute the words "Two rupees".

SRI K. T. RAJU :—"I second the amendment, Sir."

MR. SPEAKER :—"Schedule II and the amendments moved thereto are now before the House for discussion."

* SRI S. RAMALINGAM :—"சனம் சபாநாயகர் அவர்களே, இந்த ஷரத்தில் எவ்வளவு கோர்ட் கட்டணம் கட்டவேண்டுமென்று குறிப்பிடப்பட்டிருக்கிறது. அதன்படி இந்த 10-வது (ஏ) என்பதிலே,

'Application or petition presented to any officer of land revenue by any person holding temporarily settled land under direct engagement with Government and when the subject-matter of the application or petition relates exclusively to such engagement.'

டெம்பரரி செட்டில்மெண்டான நிலங்களைப்பற்றி ஏழை விவசாயிகள் ரெவின்யூ அதிகாரிகளிடம் ஏதாவது மனுக்கொடுக்கவேண்டுமானால், அதற்கு 4 அண செலுத்தவேண்டுமென்று இருக்கிறது அதை 2 அணவாகக் குறைக்கவேண்டுமென்று நான் கேட்டுக்கொள்ளுகிறேன்.

'Application or petition presented to any officer of land revenue relating to the grant of land on darkhast.'

"சர்க்கார் தங்களுக்கு சாகுபடிக்குப் புறம்போக்கு நிலங்களைக் கொடுக்கவேண்டுமென்று நிலமில்லாத ஏழை விவசாயிகள் மனு போட வேண்டுமானால் அதற்கு 4 அண ஸ்டாம்பு ஒட்டவேண்டியிருக்கிறது. அப்படி ஒட்டத்தவறிவிட்டால் அவர்களுடைய மனுவை கவனிக்கமாட்டார்கள். கவனிக்காததோடு மட்டுமல்ல, அதைப்பற்றி எவ்வித பதிலும் போட மாட்டார்கள். இவ்வாறு 4 அண எட்டணவேண்டுமென்று தெரியாமல் போடப் பட்ட பல மனுக்கள் சர்க்காரிலுள்ள ரெவின்யூ அதிகாரிகளால் மறுக்கப் பட்டிருக்கின்றன. கேள்வி நேரத்தில்கூட கனம் ரெவின்யூ மந்திரி அவர்கள் பதில் சொல்லும்போது, ஒரு வருஷத்தில் 4 ஏக்கர் நிலங்களை கொடுக்கப் பட்டிருக்கிறது என்று சொன்னார்கள். அப்படி இருக்கும்போது அவர்களை 4 அண ஸ்டாம்பு ஒட்டவேண்டுமென்று சொல்லக்கூடாது. 4 அண ஸ்டாம்பு ஒட்டுவது பெரிதல்ல. ஆனால் அவர்களுக்கு நாம் இங்கு சட்டம் செய்கின்றோம், அப்படி ஸ்டாம்பு ஒட்டவேண்டுமென்பதெல்லாம் தெரியாது. அப்படித் தெரியாது செய்தாலும் அதைப்பற்றி ஒன்றும் கவனிக்காமல் விடப்படுகிறது. அப்படி 4 அண ஒட்டவேண்டுமென்று அதிகாரிகள் சொல்வார்களா என்றால், அவர்களும் சொல்லமாட்டார்கள். 11 மணிக்கு

31st March 1955] [Sri S. Ramalingam]

தாசில்தார் ஆபீசில் இருக்கக்கூடிய பியூன் யார் மனுக்கொடுக்கிறார்களோ, அவர்கள் மனுக்களைக் கொடுக்கலாம் என்று ஒரு சப்தம் போடுவான். விவசாயிகளும் அவர் அவர்களுடைய மனுக்களைக் கொடுத்துவிட்டுப் போய் விடுவார்கள். அவர்களுக்கு இம்மாதிரி ஸ்டாம்புகள் ஒட்டவேண்டுமென்ப தெல்லாம் தெரியாது. பதிலுக்காக காத்துக்கொண்டிருப்பார்கள். அவர் களுக்கு இப்படியெல்லாம் கோர்ட்டு ஸ்டாம்பு ஒட்டவேண்டுமென்று தெரி யாது, அதற்காக இந்தச் சட்டசபையிலே சட்டம் செய்கின்றோம் என்பதும் தெரியாது. ஆகவே இதை எடுத்துவிடவேண்டுமென்று கேட்டுக்கொள்ளு கிறேன்.

‘Application to a Collector for lease of land for agricultural or non-agricul tural purposes.’

அதேபோல இரண்டு மூன்று வருஷங்களுக்கு நிலத்தை சாகுபடி செய்வதற் காக கலெக்டரை லீஸ் செய்து கொடுக்கும்படி கேட்டுக்கொள்ள விண்ணப்பம் போடும்போதும், அதற்காக 12 அணு ஸ்டாம்பு ஒட்டவேண்டுமென்று இருக்கிறது. அதையும் எடுத்துவிடவேண்டுமென்று கேட்டுக்கொள்ளு கிறேன். இதனால் சர்க்காருடைய நிதி ஒன்றும் முடங்கிப்போய்விடாது.

‘Application or petition presented to any Executive Officer under any Act for the time being in force for the conservancy or improvement of any place if the application or petition relates solely to such conservancy or improvement.’

‘அதேபோல் ஏதாவது ஒரு இடத்தை அபிவிருத்திசெய்ய வேண்டு மானால், அதற்கும் 4 அணு ஒட்டி மனுபோடவேண்டுமென்று இருக்கிறது. அதையும் எடுத்துவிடவேண்டுமென்று கேட்டுக்கொள்ளுகிறேன்.’

‘Application or petition presented to any Board or Executive Officer for a copy or translation of any order passed by such Board or officer or of any other document on record in such office.’

‘அதேபோல் அதிகாரிகளால் போட்டிருக்கக்கூடிய உத்திரவுகளின் காப்பி கொடுக்கவேண்டுமென்று விண்ணப்பித்துக்கொள்ளும்போது, அதற்கும் 4 அணு ஸ்டாம்பு ஒட்டவேண்டுமென்றிருக்கிறது. முன்னாலே அது இரண்டணுவாகத்தான் இருந்தது. அதை என் அதிகப்படுத்தி இருக்கிறார் களோ தெரியவில்லை. அதையும் இரண்டணுவாக்கி, முன்னிருந்த நிலைக்கு கொணர்வரவேண்டுமென்று கேட்டுக்கொள்ளுகிறேன்.’

‘Application or petition presented to any Court for a copy or translation of any judgment, decree or any proceeding or order passed by such Court or of any other document on record in such Court.’

‘அதேபோல் கோர்ட்டுக்கு ஒட்டிமெண்ட் காப்பியோ, அல்லது அதன் மொழிபெயர்ப்போ சமர்ப்பிக்கவேண்டுமானாலும், அதற்கும் 4 அணு ஸ்டாம்பு ஒட்டவேண்டியிருக்கிறது. அதோடு ஏதாவது டிகிரியின் காப்பியை யோ அல்லது வேறு ஏதாவது உத்திரவுகளையோ சமர்ப்பிக்கவேண்டு மானாலும் ஒவ்வொன்றிற்கும் 4 அணு ஸ்டாம்பு ஒட்டவேண்டியிருக்கிறது. இது ரொம்பவும் அதிகம். ஆகவே அதையும் இரண்டணுவாக ஆக்க வேண்டுமென்று கேட்டுக்கொள்ளுகிறேன். அப்படி இரண்டணுவாக ஆக்கு வதால் சர்க்காருக்கு பெரிய நஷ்டமொன்றும் வந்துவிடாது; அதையும் குறைத்துக்கொள்ளலாம்.’

‘அடுத்ததாக, வகாலத்துக்காக முன்பு ஒரு ரூபாய் கட்டவேண்டு மென்று இருந்தது. இப்போது அது ஒன்றரை ரூபாயாக உயர்த்தப்பட் டிருக்கிறது. அதனால் விவசாயிகளுக்குத்தான் அதிக கஷ்டமேற்படுகிறது. அவர்கள்தான் பெரிதும் பாதிக்கப்படுவார்கள். அதையும் ஒன்றரை ரூபாயி லிருந்து ஒரு ரூபாயாகக் குறைத்துக்கொள்ளவேண்டும்.’

‘அடுத்ததாக, இதுதான் ரொம்பவும் முக்கியமானது. அதாவது ஆர்டிகிள் 11-ல் எஸ் பிரிவு—

‘Petition to the High Court under Article 226 of the Constitution for a writ other than the writ of *Habeas Corpus* or a petition under Article 227 of the Constitution.’

[Sri S. Ramalingam] [31st March 1955]

“இதற்கு ரூபாய் ஸ்டாம்பு ஒட்டவேண்டுமென்று சொல்லுகிறார்கள். அரசியல் நிர்ணயச் சட்டப்படி தங்களுடைய பிரஜா உரிமைகளை பாதுகாத்துக்கொள்வதற்கு ஹைகோர்ட்டில் ரிட் பெடிஷன் போடவேண்டுமென்றால், அதற்கு ரூபாய் கட்டவேண்டுமென்றிருக்கிறது. எங்களுடைய தஞ்சாவூர் ஜில்லாவிலே பண்ணையாள் பாதுகாப்புச் சட்டம் கொண்டுவரப்பட்டிருக்கிறது. அதிலே பண்ணையாட்கள், சாதாரண குத்தகைக்காரர்கள் இருக்கிறார்கள். அவர்களுடைய விஷயங்களை சில சமயங்களில் சரியாக கவனிக்கப்படாததாலோ, அல்லது வேறு காரணங்களினாலோ உரிமை மறுக்கப்பட்டால், அவர்கள் ஹைகோர்ட்டில் ரிட் பெடிஷன் போடவேண்டும். அவர்களை ரூ. 25 செலுத்தி தங்களுடைய உரிமைகளை பாதுகாத்துக் கொள்ளவேண்டும் என்றால், தங்களுடைய உரிமைகளை நிலைநாட்டிக்கொள்வதற்குக்கூட இவ்வளவு பெரிய தொகையால் பயந்துவிடு வடுகிறார்கள். ஏற்கனவே 2 ரூபாய் என்றுதான் இருந்தது. பின்னர் ரூ. 20 என்று சொல்லப்பட்டது. கடைசியாக மசோதா கொண்டுவந்தபோது ரூ. 100 என்று ஆக்கினார்கள். ஒருவன் இவ்வளவு ரூபாய் கொடுத்து மனுச் செலுத்துகொள்வது மிகக்கடினமென்று சொல்கக் கமிட்டியில் வாதுடி ரூ. 25 ஆகக் குறைக்கப்பட்டது. இன்னும் 5 ரூபாய் என்று செய்தால், பொதுவாக எல்லா ஏழை விவசாயிகளும் தங்களுடைய உரிமைகளை பாதுகாத்துக்கொள்ள முன்வருவார்கள். ஆகவே இதிலே சற்று கவனம் செலுத்தி 5 ரூபாயாகக் குறைத்துக்கொள்ளும்படி கேட்டுக்கொள்ளுகிறேன்.”

SRI T. C. NARAYANAN NAMBIAR :—“ Mr. Speaker, by merely declaring that the fundamental rights of the citizens are guaranteed and that the Government are anxious to see that those fundamental rights of the people are respected, it will not do any good. The criterion, or the ‘*Nihasham*’ as it is called in Sanskrit meaning the touchstone used to find out whether a particular metal was gold, to find out whether they are really anxious to safeguard the fundamental rights of the citizens is to note the attitude of the Hon. the Minister for Law who is also the Leader of the House towards the amendments moved by the hon. Members of this House. My submission is that the average income of an Indian is so low that it may not be even Rs. 5 per mensem in the case of some people. The fee in respect of petitions to High Court under Article 226 of the Constitution was previously Rs. 2. In the Bill when it was first introduced here, this fee was raised to Rs. 100. In spite of the resistance on the part of the Government, this was reduced in the Select Committee stage to Rs. 25.”

THE HON. SRI C. SUBRAMANIAM :—“ Why should the hon. Member say ‘in spite of the resistance on the part of the Government’? If the Government had resisted, it could not have been reduced.”

SRI T. C. NARAYANAN NAMBIAR :—“ Of course, there was resistance. Finally they were compelled to accept the amendment. That is my submission, Sir. By my amendment which I have moved just now I want that this should be further reduced to Rs. 2.”

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p.m.

“ Therefore I request that the Government should enable people, really poor people, to go before a court of law and establish their fundamental rights. I know the Hon. Minister can understand this even without a speech from me. He very well understands the plight of the poor people. Take for instance the case

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of a poor school teacher. By an order passed in 1950, it was said that elementary school teachers can become members only of such 'Teachers' Unions as are recognized by the Director of Public Instruction. An elementary school teacher who gets only a salary of Rs. 11 a month had to go to a court of law to establish his fundamental right to become a member of any Teachers' Association. Formerly he had to spend only a little money to establish that right. Now this increase in the fees is an encroachment on his fundamental right as he cannot go before a court of law paying such large sums of money. The fundamental rights of citizens are being encroached upon in many ways by the landlords and other classes in the countryside. Therefore I hope the Hon. Minister will accept my reasonable amendment."

* SRI P. K. GOPALAKRISHNAN :—" There is an enhancement, Sir, in several items. Let me refer to a few of them. For petitions in a suit under the Native Converts' Marriage Dissolution Act, 1866, the present rate of Rs. 5 has been enhanced to Rs. 10. For 'undertaking under section 49 of the Indian Divorce Act, 1869', the present fee of annas 8 has been enhanced to Re. 1. Then 'copy of a decree or order having the force of a decree when such decree or order is made by any court other than the High Court, if the amount or value of the subject-matter of the suit wherein such decree or order is made is fifty or less than fifty rupees,' the present fee of 8 annas has been increased to 12 annas. If such amount or value exceeds fifty rupees, the fee is raised to Rs. 1-8-0 from the present rate of Re. 1. Again when such decree or order is made by the High Court, the present fee of Rs. 4 has been enhanced to Rs. 5. Under item (8), the fee has been enhanced to 12 annas from the present rate of 8 annas. Under item (9) the existing rate of 8 annas has been enhanced to 12 annas."

THE HON. SRI C. SUBRAMANIAM :—" Everybody knows it. Why go on repeating all that."

* SRI P. K. GOPALAKRISHNAN :—" I want to point out to the general enhancement made under all items only, because the Government were claiming that it is not a taxation measure. Only if you go through the different items you will find there is enhancement in general. That being so, this is definitely a taxation measure and the claims of the Government that this is not a taxation measure fall to the ground. For want of time, I am not able to refer to the other items. By this enhancement only the poor, oppressed people are put to trouble. If the Government cannot lower the existing rates, they should see that the existing rates are not enhanced. I hope the Government would consider this seriously and keep the rates at the existing level. With these words I commend at least some of the more important amendments for the acceptance of the Government."

SRI V. R. KRISHNA AYYAR :—" Mr. Speaker, Sir, I shall not take much time. I will just refer only to a few points. One thing which will bear repetition is about the constitutional remedies. It is common knowledge that these guarantees under the

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Constitution will become paper guarantees unless they are open and available for every man who is harassed or whose freedom is taken away to go to a court of law and have it redressed. That means in the spirit of the Constitution and in tune with the objectives of the framers of the Constitution we must see that a light fee, if at all a fee is necessary in such cases, should be fixed for purposes of moving writs under the Constitution Act. But what do we find here. A progressive increase is implemented which means people seem to be somewhat suspicious about the guarantees given under the Constitution. Why should common people be benefited by these guarantees? Why should they be enabled to go to court every day with writ petitions? That appears to be the attitude. That attitude according to my submission is opposed to the spirit of the Constitution. The best way to implement the fundamental rights chapter is only by making the court-fee and other procedural laws, cheap and easy for the common people, ordinary people to go to court and establish their fundamental rights.

“Take for instance the case cited by the hon. Member Sri Narayanan Nambiar. A teacher gets only a small amount. He may conceivably be getting Rs. 5 or Rs. 10 a month. When he was referring to the case of such a teacher, the Hon. Minister was heard to say: ‘Such people cannot go to court’. But then, I suggest the Constitutional remedies are not confined to the rich people alone. The rich can go to civil courts and get remedies. But it is only the poor, the oppressed, who suffer. Their freedoms are taken away. It is such people who must be enabled to go to court and seek remedies by way of writ and it is for such people that we want the reduction of the court-fees. This increase to Rs. 25 is quite unjustifiable and is entirely opposed to the spirit of the Constitution. It should be reduced to the original level of Rs. 20 if not lower still.

“Another point is this. It may be said that the Government have raised the fees for application of copies only by 2 annas. But my submission is there will be umpteening occasions in the course of appeals and other things when a party may have to apply for copies of documents and that would mean paying so many times the increased fee of 4 annas, instead of 6 annas we pay 12 annas and instead of Re. 1 we pay Re. 1-8-0. All these dribbles will then make a mighty big thing. At the end of the litigation as my hon. Friend said ‘കാക്കച്ചെലവും പോയി, കോടതിച്ചെലവും മനസ്സിലായി.’ that will be the position. It is not as if the original fees he pays alone counts. All these small amounts although they may be pricking you a little at the moment counts a lot in the course of litigation, and the party loses quite a lot of money in all these things. That is why we say there should not be these small increases even. That kind of thing should not be resorted to because ordinary people in the course of litigation may have to apply for such things number of times.

“Then, Sir, the ‘vakalat’ fees has been increased from Re. 1 to Re. 1-8-0. This seems to be only a slight increase. But every time the man who wants to engage a vakil has to pay this additional

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fee. A poor man may not be able to pay this increased fees. This increase, seemingly small strikes at the common man's power to conduct litigation and seek redress in courts of law. This is just like the court being made the temple where exploitation by the priests is going on. The rural priest goes on increasing his rates for 'Sahasranamam' so much, for this so much and so on, with the result the ordinary man is not able to enter the temple. The temples of justice, I suggest, should not be made so hard a place for ordinary, poor people to enter. They must be enabled to go there and get redress and justice. For that the Government must charge only the least or adequate fees. They should not be taxed beyond that. But what we find here is to increase the fee at every turn. That is very wrong in spirit. I think it is the man in the street who will suffer by these increases. The rich man may pay four annas instead of 2 annas but not the poor man."

MR. SPEAKER:—"It is 1-30 now. Shall we continue or adjourn now and continue further discussion on this Schedule during the night sitting."

THE HON. SRI C. SUBRAMANIAM:—"We will sit for 15 more minutes and finish the Schedules and clauses 1 and 2."

MR. SPEAKER:—"As soon as the schedule under discussion is passed we shall take up Schedule III. It can be passed in no time as there are no amendments. Then we shall take up clauses 1 and 2 and pass them. Let us have the third reading of the Bill during the night sitting."

SRI M. KALYANASUNDARAM:—"Anyhow we are going to sit in the night to-day. We shall continue the discussion tonight and adjourn now, and meet again at 8 p.m."

THE HON. SRI C. SUBRAMANIAM:—"It will be better if we meet at 8-30 p.m. instead of 8 p.m."

MR. SPEAKER:—"Yes. The House will now adjourn and meet again tonight at 8-30 p.m."

The House then adjourned.

(Night sitting—8-30 p.m.)

SCHEDULE II—cont.

SRI M. KALYANASUNDARAM :—"கனம் சபாநாயகர் 8-30 அவர்களே, இரண்டாவது ஷெடியூல்லிலே மொத்தமாக எல்லா கோர்ட்டு பட்டணங்களையும் உயர்த்தப்பட்டிருக்கிறது என்பதை கனம் நிதி அமைச்சர் அவர்களே ஒப்புக்கொண்டிருக்கிறார்கள். அப்படி உயர்த்தப் பட்டிருப்பது சில சாதாரண ஜனங்களை பாதிக்கக்கூடியதாக இருக்கிறது. அதோடு கூட அரசியல் சட்டப்படி கொடுத்திருக்கக்கூடிய உரிமையை எல்லோரும் அனுபவிப்பதற்குத் தடையாகவும் இருக்கிறது. அந்த விகிதங்களைக் குறைக்கவேண்டுமென்பதற்காகத்தான் நான் திருத்தங்கள் கொடுத்திருக்கிறேன். அதைக் கவனிக்கவேண்டும். உதாரணமாக, காண்ஸ்டிடியூஷனின் 226-வது ஆர்டிகிள்படி ஹைகோர்ட்டிலே போடவேண்டிய ரீட் பெடிஷனுக்கு ரூ. 25 என்று கட்டணம் உயர்த்தப்பட்டு இருக்கிறதென்பதை இந்தப் பக்கத்தில் இருக்கக்கூடிய அங்கத்தினர்கள் எடுத்துக் காட்டினார்கள். ஆரம்பத்தில் இதற்கு ரூபாய் இரண்டு என்றுதான் இருந்தது. சர்க்காருக்கு என்ன எண்ணம் ஏற்பட்டதென்றால், அதிகமாக ஜனங்கள் ரீட் பெடிஷன் போடுகிறார்கள். இது சுலபமாகப் போய்விட்டது. ஆகவே

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ரிட் பெடிஷன் போடுவதை குறைக்கவேண்டுமென்ற காரணத்திற்காக கட்டணத்தை உயர்த்தலாம் என்ற எண்ணம் உண்டாயிற்று. பிறகு உடனே ரூ. 20 என்று சொன்னார்கள். கடைசியாக ரூ. 100 என்ற திருக்கவேண்டுமென்று சொல்லப்பட்டது. செலக் கமிட்டியில் இந்த மசோதாவானது பரிசீலிக்கப்பட்டு இப்போது ரூ. 25 என்று வந்திருக்கிறது. இந்த ரூ. 25-ம் அதிகமானது. அதை ரூ. 5-ஆகக் குறைக்கவேண்டுமென்றுதான் நானும் திருத்தம் கொடுத்திருக்கிறேன். அப்படி ஐந்து ரூபாயாகக் குறைப்பதால் சர்க்காருக்கு ஒருவேளை வருமானம் குறையலாம். ஆனால் இப்போது செய்திருப்பதானது, இந்த வலதுகையால் கொடுக்கப்பட்டு, இடதுகையால் உடனே பறிக்கப்படுவதைப் போல் இருக்கிறது. அந்தக் குற்றச்சாட்டிற்கு ஆளாகாமல் இருக்கவேண்டுமானால், இதில் வருமானத்தையோ, லாபநஷ்டத்தையோ பார்க்கக்கூடாது. ஓரளவிற்கு இந்த ரிட் பெடிஷன் போடுவதற்கு பிரஜா உரிமையின் அடிப்படையை நியாயமாக ஜனங்கள் அனுபவிக்க, அரசியல் சட்டத்திலே கொடுக்கப்பட்டுள்ள உரிமைகளை மக்கள் அனுபவிக்க அவர்கள் ஹைகோர்ட்டிலே ரிட் பெடிஷன் போடுவதற்கான வழிகளை சலப்பதில் ஆக்குவதற்கான வழிகளைச் செய்யவேண்டும். சாதாரணமாக, யாரும் ஹைகோர்ட்டுக்குச் சென்று ரிட் பெடிஷன் போட்டு நேரத்தை வீணாக்கவிரும்பமாட்டார்கள். அப்படி அவசியமாக யாரும் எடுத்துக்கொண்டும் செல்லமுடியாது. ஹைகோர்ட்டிலே நீதிபதிகள் அவைகளைச் சலப்பதில் அனுமதிப்பதில்லை. அவைகளை முதலில் அனுமதிப்பதற்கு பெரிய கஷ்டங்களும், இடையூறுகளும் இருக்கின்றன. அவ்வளவு சலப்பமானதல்ல. ஆகவே கட்டணத்தை உயர்த்தாமல், அவர்களுக்கு மேலும் அதிகச் சிரமத்தை உண்டாக்காமல் சர்க்கார் பார்த்துக்கொள்ளவேண்டும்.

“சாதாரணமாக, சில ஆர்டிகிள்களிலே கொடுக்கப்பட்ட உரிமைகளை ஹைகோர்ட்டுக்குச் சென்று பாதுகாத்துக்கொள்ளக்கூட முடியாமல் இருக்கிறது. ஆர்டிகிள்களிலே ஒவ்வொருவருக்கும் வேலைக்கு பிரஜா உரிமை வழங்கப்பட்டிருந்தாலும்கூட, அவர்கள் மேலும் ஹைகோர்ட்டுக்குச் சென்று அமுல்படுத்திக்கொள்ளக்கூடிய அளவில் இல்லை. அந்தச் சலுகையை அவர்கள் பெறமுடியாத அளவிற்குத்தான் இந்த ஆர்டிகிள்கள் அமைக்கப்பட்டிருக்கின்றன என்பதை எடுத்துக்காட்ட விரும்புகிறேன். சாதாரணமாக, முதலாளிகளிடம் வேலைசெய்யக்கூடியவர்களோ, ஏன் சர்க்காரிலே வேலைசெய்யக்கூடியவர்கள்கூட சில சமயங்களில் அநியாயமாக டிஸ்ட்ரீஸ் செய்யப்பட்டு விடுகின்றனர். தவறுதலான உத்திரவுகள் போடப்பட்டு டிஸ்ட்ரீஸ் செய்யப்படுகின்றனர். இன்னும் நிர்வாகத் திறமையினால் அதிகாரிகள் புரியும் சில குற்றங்களுக்கு ஹைகோர்ட்டுக்குச் சென்று பரிசாரம் தேடிக்கொள்ளக்கூட முடியாமல் இந்த ஆர்டிகிள் பாதுகாப்பாக இருக்கிறது. சாதாரணமாக இதற்கெல்லாம் ரிட் போடுவதென்றால் அவைகளைச் சலப்பமாகச் செய்யவேண்டும். இப்படிச் செய்வதால், அவர்கள் பிரஜா உரிமைகளைக்கூட பாதுகாத்துக்கொள்ள முடியாமல் இருக்கிறது. அப்படி இருக்கக்கூடியதைமாற்றி, அவர்களுக்கு அம்மாதிரி சிரமத்தைக் கொடுக்கக்கூடாது என்பதை இந்தச் சர்க்கார் விரும்புகிறது என்பதை காட்டிக்கொள்ள வேண்டுமானால், பொறுப்பிருக்கிறது என்பதை மக்களுக்குத் தெரிவித்துக்கொள்ள வேண்டுமானால் இந்தக் கட்டணங்களை யெல்லாம் உயர்த்தியிருப்பதைக் குறைத்துக்கொள்ள முன்வரவேண்டும். அப்பொழுதுதான் சர்க்காருக்கு அரசியல் சட்ட உரிமைகளைப் பாதுகாப்பதில் ஒரு அக்கறை இருக்கிறது என்பதை மக்கள் உணரமுடியும். ஆகவே இந்தக் கட்டணங்களையெல்லாம் குறைக்கவேண்டுமென்பதை வற்புறுத்த விரும்புகிறேன். ரூபாய் ஐந்து என்று ஆக்கவேண்டுமென்று நான் திருத்தம் கொடுத்திருக்கிறேன். எனவே 25 ரூபாய் என்று உயர்த்தியிருப்பதை ரூ. 5 என்று குறைத்துக்கொள்ள வேண்டுமென்பதை வற்புறுத்துகிறேன்.”

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* THE HON. SRI C. SUBRAMANIAM:—“Mr. Speaker, Sir, the criticisms centred round the provision of levying a court-fee of Rs. 25 for writ petitions. With great respect to the hon. Members on the other side, I am afraid I have to state that their criticism is too theoretical. If only hon. Members would go through the

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writ petitions which have been filed in our High Court after the coming into effect of the Constitution, they would find that the Government would be justified not only in levying Rs. 25 but also Rs. 100 and even more. Sir, it is not as if it is the intention of the Government to see that this writ petition is not resorted to in justifiable cases. But unfortunately the tendency has been to go to the High Court with all sorts of pleas in the form of a writ petition. Therefore, it has been found necessary that at least a reasonable court-fee should be fixed. Hon. Members are also aware that for a person either in the mufassal or in the City who goes to the High Court for the purpose of filing a writ petition, the court-fee is not the main item of expenditure. It is something else. Therefore, the criticism that the Government have increased it to Rs. 25 and have attempted to increase it to Rs. 100 is not based on practical considerations. They have not taken into account the actual categories of writ petitions which are now ordinarily filed before the High Court. If only they would take the trouble—I am sure they would have taken it—and understand properly, they would recommend to the Government to raise it much higher even though one or two cases out of 1,000 may be requiring some relief. For that we need not lower the court-fees levied for writ petitions. We have guaranteed fundamental rights to the citizens of this country and by raising the court-fee for writ petitions, we are in no way affecting their fundamental rights. On the other hand, in my view, the Government should, as far as possible, see that those fundamental rights are not in any way affected and that they are properly guaranteed to the citizen. The freedom of the citizen is not guaranteed merely in giving him the right to go to the High Court. After all, we know how many persons go to a court of law. It is only a few persons who go to a court of law. Therefore it should be the attempt of any Government, having laid down certain fundamental rights and having guaranteed them, to see that those fundamental rights are properly safeguarded and guaranteed to every citizen. That should be attempted in the day to day administration of the Government. Merely giving a right to go to the High Court will not be enough. As a matter of fact, the fundamental rights guarantee the right to go to the Supreme Court, not to the High Court and by giving a right to go to the Supreme Court, which is far away in New Delhi, the fundamental rights are not going to be guaranteed or protected. It is only by the awareness of the Government themselves that those rights should be protected. That alone would give our citizens a sense of protection, a sense of freedom and a sense of liberty. That will always be the attempt of this Government and hon. Members need not be under the impression that simply because the court-fee is raised to Rs. 25; it is an attempt to lessen the importance of the fundamental rights guaranteed under the Constitution. Therefore, I have to say that, that is the justification on the part of the Government for fixing the court-fee at Rs. 25. As far as I am concerned, I feel even if it is fixed at Rs. 100, it will not cause any injustice to the ordinary citizen. Injustice will be done only if the Government take it into their head to flout the fundamental rights. Then no court can protect those rights, however, powerful it may be. That is what we

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see in every country to-day. It will be our endeavour to give full protection to our citizens so that they may enjoy their freedom and liberty and safeguard their fundamental rights. Not only that. It will be our endeavour to work out the Directive Principles also, which was referred to by the Hon. the Deputy Leader of the Opposition. It is not for mere show or for satisfying anybody else that the Directive Principles have been incorporated in the Constitution. It is for the purpose of seeing that the Government should have that ideal, work for that ideal and take proper steps progressively towards that ideal that they have been incorporated. If we are unable to achieve spectacular results, it is because of the difficulties inherent in the situation and we are trying our best to overcome those difficulties. I hope ere long even the Hon. the Deputy Leader of the Opposition, in spite of his prejudice against the present form of Government, against democracy and against Congress, will have something to say in favour of the present form of democracy. I do not think I need dwell any further on that.

"As far as the other aspects are concerned, there has been a complaint that there is a general increase of court-fee. But these rates were fixed long long ago when the money values were much more than what they are now. Money values have gone up by four times the pre-war level, but we have not attempted to increase the rates correspondingly. In most cases the increase is about 10 per cent or 25 per cent and in certain cases it is 50 per cent. These are justified in the circumstances of the case.

"The hon. Member Sri S. Ramalingam wanted that no fee should be chargeable on an application or petition presented to an officer of land revenue relating to the grant of land on darkhast. The petition will become absolutely useless if there is no stamp affixed to it. Even from the point of view of the person who presents it and from the point of view of the person who receives it, it is better that some stamp is affixed. The officer who receives the petition will take care and see that it is properly disposed of, because there is some stamp affixed to it. Merely writing something on a paper and presenting it will be of no value whatsoever. I do not think that anybody is going to be affected by this levy of four annas. We have the interests of those landless poor, who apply for the land, at heart and hon. Members will have to judge the results not by the fact of the collection of four annas but by the fact of distribution of the land. The collection of four annas should not be the test. I do agree that if ultimately we are unable to give these waste lands properly parcelled out to the landless poor—not only parcelled out, but also fail to create conditions wherein they will be able to effectively cultivate the lands—then, of course, they can pass a judgment, but let not hon. Members judge our interest in those persons by this levy of four annas for a petition of this kind. It was suggested that it may be two annas. There is not much difference between two annas and four annas. I have experience of these matters and I may tell the hon. Member that it is better to fix some nominal fee if they are to have some effect. Therefore, I do not think I should agree to any of the amendments moved by the hon. Members. I would appeal to them

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not to be under the impression that the Government are wanting to make money out of this levy of four annas and that it is the Opposition who want to protect the interests of those persons. I would therefore appeal to hon. Members not to press any of their amendments but to withdraw them."

* SRI S. RAMALINGAM :—" Sir, my objection to the levy of four annas was on some other ground. I am not worried if it is even 12 annas, because they can afford to spend 4 annas or 8 annas or 12 annas. My contention is that the poor agriculturists may not know the Court Fees Act or the rules. So far, they have been presenting such petitions without affixing any stamp. They will adopt the same practice. What I fear is that the Tahsildar or some other officer who receives the petitions will simply throw them away on the plea that no stamp has been affixed to the petitions. I would therefore request the Government to specially instruct the Tahsildars and other officials to see that whenever petitions are presented without affixing stamps, the concerned persons should be informed to resubmit them duly affixing the stamps. Only thus, the hardship can be avoided. What we find is these officers call the petitioners at 11 o'clock and the petitioners are requested to come after a week. When they come after a week, the petitions will not be available nor will any action be taken on them. So I request the Government to issue necessary instructions in the matter."

* THE HON. SRI C. SUBRAMANIAM :—" Not only for want of court-fee stamps, but also on other technical grounds, petitions are returned. I am aware of this and as far as Government are concerned, we shall try to remove all these disposals on technical grounds and see that justice is done to the people."

The amendments of the hon. Member Sri P. K. Gopalakrishnan (Nos. 157 to 172) were put and lost.

The amendments of the hon. Member Sri M. Kalyanasundaram (Nos. 262 to 271 and 273 to 278) were put and lost.

SRI S. RAMALINGAM :—" Sir, I withdraw my amendments Nos. 192 and 193."

The amendments of the hon. Member Sri S. Ramalingam (Nos. 192 and 193) were, by leave of the House, withdrawn.

The amendment of hon. Member Sri S. Ramalingam (No. 196) was put and lost. 8-50 p.m.

The amendment of hon. Member Sri T. C. Narayanan Nambiar (249) was then taken up.

MR. SPEAKER :—" The question is—
SCHEDULE II, ARTICLE II (s).

For the words " twenty-five rupees ", substitute the words " two rupees "."

The amendment was declared lost.

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Sri T. C. Narayanan Nambiar demanded a poll.

Division bells were rung and Members poured in.

MR. SPEAKER :—“ I shall again put the amendment to the vote of the House. The question is—

SCHEDULE II, ARTICLE II (s).

‘ For the words “ twenty-five rupees ”, substitute the words “ two rupees ”. ’ ”

The amendment was declared lost.

The Schedule II was put and carried.

MR. SPEAKER :—“ There are no amendments to Schedule III. I shall put it to the vote of the House. The question is—

‘ That Schedule III do stand part of the Bill. ’ ”

Schedule III was put and carried.

MR. SPEAKER :—“ The motion is—

‘ That clause 2 do stand part of the Bill. ’ ”

* SRI P. S. KRISHNASWAMY AYYANGAR :—“ Before proceeding with the discussion on clause 2, may I know whether my amendment (No. 74) will be taken up now for discussion. The understanding was that we should take up the discussion . . . ”

THE HON. SRI C. SUBRAMANIAM :—“ Amendment No. 74 inserting a new clause 50-A was thrown out and there is no need to come back to it. ”

SRI S. RAMALINGAM :—“ Sir, I move the following amendment (173) :—

‘ In sub-clause (1), after item (b), insert the following new item :—

“ (c) proceedings of the conciliation officer or the Revenue Court constituted under the Tanjore Tenants and Pannayal Protection Act. ’ ”

SRI T. C. NARAYANAN NAMBIAR :—“ I second the amendment. ”

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p.m.

* SRI S. RAMALINGAM :—“ கனம் சபாநாயகர் அவர்களே, என்னுடைய திருத்தத்தின் மூலமாக நான் கேட்டுக்கொள்வது என்னவென்றால் சென்ற இரண்டு ஆண்டுகளுக்கு முன்பாக தஞ்சை குடியானவர்கள் பண்ணையாள் பாதுகாப்புச் சட்டம் நிறைவேற்றப்பட்டிருக்கிறது. அந்தச் சட்டத்திலே ஒரு குடியானவன் தனக்கு ஏதாவது தாவா போட இருந்தால் ஒரு ரூபாய் கோர்ட்டீ ஸ்டாம்பு ஒட்டி கன்சீலி யேஷன் ஆபீசர் அல்லது ரெவின்யூ கோர்ட்டுக்கு மனு போடலாமென்று சட்டம் செய்யப்பட்டிருந்தது. அதிலும் பண்ணையாளாக இருந்தால், அவன் ஹரிஜன் என்ற காரணத்திற்காக அவன் ஏதாவது ரிட் பெடிஷன் கோர்ட்டுக்குப் போடவேண்டுமென்றால் அவன் அந்த ஒரு ரூபாய் ஸ்டாம்பு கூட ஒட்டவேண்டியதில்லை. அதற்கு பண்ணையாள் பாதுகாப்புச் சட்டத்திலே இடமிருக்கிறது. அதன்படி கடந்த இரண்டு ஆண்டு காலமாக நடந்து கொண்டும் வருகிறது. ஆனால் குடியானவன் தனக்கு வக்கீல் வைத்துக் கொள்ள முடியாதாகையால் தனக்குப் பதிலாக யாராவது ஒரு பிரதிநிதியை ஆஜர் ஆகும்படி செய்யலாம் என்று சட்டத்தில் குறிப்பிடப்பட்டு

31st March 1955]

[Sri S. Ramalingam]

இருக்கிறது. அதன்படி சென்ற இரண்டு ஆண்டுகளாக, குடியானவன் சாதாரணமாக ஒரு துண்டுக் கடுதாசியில் இன்னரை நான் எனக்குப் பதிலாக பிரதிநிதியாக அனுப்புகிறேன் என்று எழுதிக்கொடுத்தாலே, அதற்கு ஸ்டாம்பு இல்லாமலே வாங்கிக்கொண்டிருந்தார்கள். அப்படி செய்யப்பட்டவர்கள், அவர்களுக்குப் பதிலாக கன்சீலியேஷன் ஆபீசர் அல்லது ரெவின்யூ கோர்ட்டுக்குச் சென்று வாதாடி வந்தார்கள். ஆனால் சென்ற ஐந்தாறு மாத காலமாக இந்த கன்சீலியேஷன் ஆபீசரும், ரெவின்யூ கோர்ட்டாரும் அப்படி குடியானவர்களுக்குப் பதிலாக வரக்கூடிய பிரதிநிதிகளுக்கு எழுதிக்கொடுக்கும் மனுவில் கோர்ட்டி ஸ்டாம்பு ஒன்றரை ரூபாய்க்கு ஒட்டவேண்டுமென்று கூறுகிறார்கள். அப்படி நிர்ப்பந்தம் செய்து வசூலித்துக்கொண்டும் வருகிறார்கள். அது மட்டுமல்ல; குத்தகைக்காரர்கள் சாகுபடிக்காக நிலத்தை வாங்கிக்கொள்ளும்போது முன்பெல்லாம் அந்த டாகுமெண்டுக்கு ஸ்டாம்பு எதுவும் ஒட்டவேண்டியதில்லை. இந்த அளவு நிலத்தை எடுத்துக்கொள்ளப்பட்டிருக்கிறது, அதற்கு இவ்வளவு கலம் நெல் அளக்கவேண்டுமென்று தீர்ப்பு செய்யப்பட்டிருந்தது.

“இப்போது அதற்கு, சிவில், கிரிமினல் கோர்ட்டுகளில் Exhibits போடுவதுபோல, 3/4 ரூபாய் ஒட்டினால்தான் சாட்சியாக, டாகுமெண்டாக (document) ஒத்துக்கொள்ளமுடியும் என்று சொல்லுகிறார்கள். இந்த மாதிரி மனுபோடும்போது ஒட்டும் Court fee தொலையட்டும், பல ரூபங்களில் அதிகமான செலவுகளை ஏற்படுத்துவதால், விவசாயிகளுக்கு ஏற்கனவே நமது சபையில், சலுகை காட்டப்படவேண்டும் என்று நாம் சொல்லிவந்திருப்பதை மறைமுகமாக பறித்துவிடக்கூடிய நிலைமை ஏற்பட்டிருக்கிறது. இதன் விளைவாக பெரியளவிற்கு பாதிக்கப்படுபவர்கள் பண்ணையாட்கள்தான் என்பதை நாம் நிலைவில் வைத்துக்கொள்ள வேண்டும். பண்ணையாட்கள் போடும் original petition பேரில் ரூபாய் 1½ Court-fee ஒட்டினால் போதும் என்று சொல்லிவிட்டு, பின்னால் சாட்சியாக போடக்கூடிய document களின்பேரிலும், பிரதிநிதிகளாக வரக்கூடியவர்களின் அத்தாட்சி கடிதத்தின்பேரிலும், ரூ. 1-8 ஸ்டாம்பு ஒட்டவேண்டும் என்று சொல்லுவது மிகவும் அதிகமாக இருக்கிறது. இதனால் அவர்களுக்குக் கிடைக்கக்கூடிய கூலியில் துண்டு விழும். ஆகையால், குறிப்பாக Conciliation Officer proceedings, Revenue Officer proceedings-ஆம் இந்த சட்டத்தை அமுலுக்கு சொண்டு வரக்கூடாது. பண்ணையாட்கள் சாதாரண முறையில் ஆஜராவதற்கு வசதிகளும், document-களை அங்கு Court-களின் முன்பாக சமர்ப்பிக்கவேண்டிய வசதிகளும் செய்யவேண்டுமென்று கேட்டுக்கொள்ளுகிறேன்.

“அடுத்தபடியாக சென்ற 15 நாட்களுக்கு முன்பு நடந்த ஒரு சம்பவத்தைக் கூற விரும்புகிறேன். சாதாரணமாக, கோர்ட்டுகளில் எல்லாம் வக்கீல்கள் ஆஜராவது என்றால், அத்தாட்சி கடிதத்தின்பேரில் ஒரு ரூபாய் ஸ்டாம்பு ஒட்டி, ஆஜரானால்போதும் என்று இருக்கிறது. ஆனால் அவர்கள், பண்ணையாட்கள் விவசாயிகளின் representative-ஆக ஆஜராகிறார்கள் என்று சொன்னதின்பேரில், அந்த வக்கீல்களும், அத்தாட்சி கடிதத்தின்பேரில் ரூ. 1-8 ஸ்டாம்பு ஒட்டவேண்டும் என்று Revenue கோர்ட்டாரும், Conciliation Officer-களும் நிர்ப்பந்தித்தார்கள். இதற்குப் பிறகு, வக்கீல்கள் எல்லோரும் சேர்ந்து, Secretariat-க்கோ அல்லது High Court-க்கோ சங்கத்தின் மூலம் எழுதி, ரூ. 1-8 ஸ்டாம்பு ஒட்டவேண்டும் என்ற நிர்ப்பந்தத்தை ரத்து செய்துவிட்டு, ஒரு ரூபாய் ஸ்டாம்பு ஒட்டினால் போதும் என்று இப்போது ஒட்டிவருகிறார்கள். விவசாயிகளின் பிரதிநிதிகளுக்கு மாத்திரம் இந்த சலுகை கிடைக்கவில்லை. அவர்கள் ரூபாய் 1-8 ஸ்டாம்பு ஒட்டவேண்டும் என்ற நிர்ப்பந்தம் இன்னும் இருக்கிறது. இது சம்பந்தமாக கனம் ரெவின்யூ மந்திரிக்கு நான் எழுதிய கடிதத்தின்பேரில் Court fee சட்ட பிரகாரம் ஸ்டாம்பு ஒட்டத்தான் ஆகவேண்டும் என்று சொல்லிவிட்டார்கள். ஆகையால்தான் இது சம்பந்தமாக இப்போது திருத்தம் கொடுத்திருக்கிறேன். அதை சர்க்கார் ஏற்றுக் கொள்ளுவார்கள் என்று நம்புகிறேன்.”

* SRI A. K. SUBBIAH :—“கனம் சபாநாயகர் அவர்களே, விவசாயிகள் 9 p.m.
Court-fees ஒட்டி வழக்கு நடுத்துவது, வாதிப்பது என்பது முடியாது என்று பல வருஷங்களாக நாங்கள் சொல்லியிருக்கிறோம். கனம் மந்திரி

[Sri A. K. Subbiah]

[31st March 1955]

அவர்களுக்கும் பல முறை இது சம்பந்தமாக விண்ணப்பங்கள் சமர்ப்பிக்கப் பட்டிருக்கின்றன. இவற்றை சர்க்கார் கவனிக்காத காரணத்தினால், சாதாரணமாக ஏழை விவசாயிகள், பண்ணையாட்கள், தங்களுக்கு ஐந்து கலம் வருமானம் பாக்கி வரவேண்டு மென்பதற்காக Conciliation Court-ல் தாவா செய்தால், அந்த தாவாவின் பேரில் Court-fee ஸ்டாம்பு ஒரு ரூபாயும், mileage-க்காக, மைலுக்கு இரண்டணு வீதம் ஸ்டாம்பும் ஒட்ட வேண்டியிருக்கிறது. ஒவ்வொரு தாலுகாவின் தலை நகரத்திலாவது அந்த Conciliation Court-ஐ வைத்திருந்தாலும் கூட பரவாயில்லை. அப்படியில்லாமல், தஞ்சை ஜில்லாவை எடுத்துக்கொண்டால், அந்த ஜில்லாவை இரண்டு பகுதிகளாக பிரித்து இரண்டு இடங்களில் அந்த Court-ஐ வைத்திருக்கிறார்கள். இதன் விளைவாக, ஒரு பண்ணையாள் இருக்குமிடத்திற்கும், அந்த Conciliation Court-க்கும் 20 mile தூரம் இருந்தால், மைலுக்கு இரண்டணு வீதம், போகவர mileage-க்காக, ரூபாய் 5க்கு Court-fee stamp ஒட்ட வேண்டியிருக்கிறது. மேலும் வகாலத்திற்கு ரூ. 1-8-0 ஸ்டாம்பு. இந்த மாதிரி கணக்குப்பார்த்தால் குறைந்த பட்சம் ரூபாய் 6, 7 வரையிலும் பண்ணையாள் ஸ்டாம்பு ஒட்ட வேண்டிய நிலைமை ஏற்படுகிறது. மேலும் அந்த தாவா விஷயமாக 10 hearings நடந்தால் (10 X 5) ரூபாய் 50 செலவுழிக்க வேண்டியிருக்கிறது. விவசாயிக்கு கிடைக்கக்கூடிய 5 கலம் நெல்லுக்காக, அதாவது ரூபாய் 30 கிரயம் ஆகிறது, அதற்காக ரூபாய் 50 செலவுழிக்க வேண்டியிருக்கிறது. ஆகையால், விவசாயிகளுக்கு சௌகரியம் அளிக்கக்கூடிய முறையில் Court-fee கட்டண உயர்வை ரத்து செய்து, முன்பு பண்ணையாள் பாது காப்புச் சட்டம் போடும்போது விவசாயிகள் மனு செய்துகொண்டால் அதன்பேரில் ஒரு ரூபாய் ஒட்டினால் போதும் என்று சொன்ன பிரகாரம், அதே முறை நீடிக்கும்படிச் செய்யவேண்டுமென்று கேட்டுக்கொள்ளுகிறேன். அடுத்தபடியாக, விவசாயிகளுக்காக வகாலத்து வாங்கக்கூடிய வக்கீல்களோ, அல்லது விவசாயிகளின் பிரதிநிதிகளோ, ரூபாய் 1-8-0 stamp அத்தாட்சி கடிதத்தின்பேரில் ஒட்டவேண்டுமென்று இருப்பதை எடுத்துவிட வேண்டுமென்று சர்க்காரை கேட்டுக்கொள்ளுகிறேன்.

9-02
p.m.

* SRI P. VENKATESHA SHOLAGAR :—“கனம் சபாநாயகர்

அவர்களே, ஆரம்பத்தில் இந்த பண்ணையாள் வாரம் குத்தகை பாதுகாப்பு சட்டம் வந்தபோது, ஏதோ ஓரளவிற்கு பண்ணையாட்கள் மனு செய்து கொண்டால் ஒரு ரூபாய் ஸ்டாம்பு ஒட்டினால் போதும் என்று இருந்ததன் பயனாக 100க்கு 25 நியாயம் கிடைத்து வந்தது. ஆனால் இப்போது அவர்கள், மிராசதாரை எதிர்த்து நின்று பேசி, சட்டப்படி தாவா செய்து உரிமையை வாங்குவேன் என்று சொல்லுவதற்கு சத்தி கிடைப்பது, காரணம் “செத்த ஆடு கால் பணம், சமைகூலி முக்கால் பணம்” என்பது போல, பண்ணையாட்கள், 6 மரக்கால், 9 மரக்கால் அல்லது 1 கலம் நெல் பாக்கிக்காக மனுபோட வேண்டுமென்றால், மனுவின்பேரில் stamp கட்டணம், அதற்கு பிறகு கோர்ட்டு இருக்குமிடத்திலிருந்து வேதாரணி ணியத்திலிருந்து மைல் கணக்கில், திருவாரூர் போன்ற இடங்களுக்கு வருவதற்கு mileage charge இதுவெல்லாம் சேர்த்து ஸ்டாம்பு ஒட்டவேண்டியிருக்கிறது. இந்தக் கட்டணங்களை செலுத்த வேண்டுமென்றால், அவன் வயிற்றில் கையை வைத்துக்கொண்டு திருப்பிப் போவதைத் தவிர வேறு வழியில்லை. ஆகவே ஏதாவது சட்டம் போட்டால், அந்த சட்டத்தின்படி மக்கள் சௌகரியம் அடைவார்கள் என்ற நம்பிக்கை ஏற்படவேண்டும். அப்படியில்லாமல் சர்க்கார் மனசாட்சிக்கு விரோதமான முறையில் ஸ்டாம்பு கட்டணத்தை வசூல் செய்தால் பிரயோஜனப்படாது. ஆகவே இப்போது கொண்டுவரப்பட்டிருக்கும் Court-fee சட்டத்தினால் அவர்களுக்கு ஏதாவது பிரயோஜனம் இருக்கவேண்டுமென்றால், stamp-fee-ஐ உயர்த்தியிருப்பதை இந்த சட்டத்தைப் பொறுத்த மட்டில் அமுல் நடத்தாமல், அவர்களுக்கு விதி விலக்கு அளிக்க வேண்டுமென்று கேட்டுக்கொள்ளுகிறேன்.”

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* THE HON. SRI C. SUBRAMANIAM :—“Sir, in sub-clause (2), here it is said : ‘Where any other law contains provisions relating to the levy of fee in respect of proceedings under such other

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law, the provisions of the Act relating to the levy of fee in respect of such proceedings shall apply subject to the said provisions of such other law.' That being the case, I do not think we can be taking into account one special law and deal with it here. That is why, Sir, I am unable to accept it. If all these matters are placed before my Hon. Colleague in charge of Revenue, he will take all those things into account and bring in necessary amendments to the Tanjore Tenants and Pannayal Protection Act. It will be appropriate there in that Act to make all these provisions and it would not be appropriate here in this Act. Therefore, I request the hon. Member not to press his amendment. As far as that Tanjore Act is concerned, I shall certainly ask my Colleague to look into it whether there are any difficulties and if there are difficulties, they will be removed by amending the Act, if necessary; or if they could be removed by executive instructions, we shall issue necessary executive instructions."

SRI S. RAMALINGAM :—" Sir, in view of the assurance given by the Hon. Minister that the difficulties would be removed, if it is possible, through executive instructions or by amending the Act, I wish to withdraw my amendment."

The amendment (No. 173) was, by leave of the House, withdrawn.

MR. SPEAKER :—" The question is—
' That clause 2 do stand part of the Bill.' "

Clause 2 was carried.

Clause 1.

MR. SPEAKER :—" The motion is—
' That clause 1 stands part of the Bill.' "

THE HON. SRI C. SUBRAMANIAM :—" I move—

' In sub-clause (1), for the figures " 1954 ", substitute the figures " 1955 ". ' "

MR. SPEAKER :—" The question is—

' In sub-clause (1), for the figures " 1954 ", substitute the figures " 1955 ". ' "

The motion was carried.

MR. SPEAKER :—" The question is—
' That clause 1 as amended stands part of the Bill.' "

* SRI M. NARAYANA KURUP :—" Sir, in this connexion I want some doubts to be cleared. Sub-clause (3) says, ' it shall come into force on such date as the State Government may, by notification in the *Fort St. George Gazette*, appoint.' My apprehension is whether there would be difficulties in the actual application of it. For instance, here the value of court-fee has been changed in one or two material respects, namely, market value and money value. As far as market value is concerned, it is

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specifically stated in clause 7 that it shall be determined as on the date of presentation of the plaint. There is no difficulty. Then in appeals also clause 52 says so many things, but in the last Explanation, that is, Explanation (5), it is said 'where the market value of the subject-matter of the appeal has to be ascertained for the purpose of computing or determining the fee payable, such market value shall be ascertained as on the date of presentation of the plaint.' For instance, if the money value of the appeal is Rs. 100 to-day, he has to pay Rs. 11-4-0; meanwhile this Act comes into force and if that is the first instance, he will have to pay only Rs. 7-8-0. The expression 'date of presentation of the plaint' is not here.

"Then again, we have made in so many cases that defendants also have to pay court-fee. We have made changes in respect of suits relating to documents, etc., now in this Act, and this Act comes into force on a particular day. Will all the provisions apply as on that date or will the changes apply in relation to the presentation of the plaint? That is my difficulty.. In places where it is mentioned 'date of presentation of the plaint' I have absolutely no doubt; but in other cases will there be any difficulty, that is, where the matter relates to a number of sections?"

* THE HON. SRI C. SUBRAMANIAM:—"I do realise the difficulties pointed out by Mr. Kurup. I will point out another difficulty also. Suppose, a suit has been filed; it would have been valued on the old basis and court-fee paid on the old basis. Suppose, as against that, after coming into force of this Act, he has to present an appeal, what will be the basis of valuation? That will be a problem. When under the provisions of this Act, he will have the advantage of lesser court-fee, he will also have the disadvantage of valuing the suit under the provisions of this Act. I do not think, Sir, from the date of application of this Act, for a pending proceeding it will apply; once the matter has gone out of hand and plaint has been filed, it has no retrospective effect. That is as far as I could see. However, I shall have it examined along with the notifications and appropriate instructions will be issued to the courts so that there won't be any difficulty."

Clause 1 as amended was carried.

PREAMBLE.

THE HON. SRI C. SUBRAMANIAM:—"I move—

'In the second paragraph of the Preamble, for the words "Fifth year", substitute the words "Sixth year".'"

MR. SPEAKER:—"The question is—

'In the second paragraph of the Preamble, for the words "Fifth year", substitute the words "Sixth year".'"

The amendment was put and carried.

The Preamble as amended was put and carried.

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* THE HON. SRI C. SUBRAMANIAM :—“ I move—

‘ That the Madras Court-Fees and Suits Valuation Bill, 1955 (L.A. Bill No. 25 of 1954), as amended, be passed.’

“ May I take this opportunity to thank the hon. Members who took such a keen interest in the Bill during the Select Committee stage and at the stage of its passing through the Legislature. I am particularly thankful to the Hon. Member Sri Krishnaswamy Ayyangar for the very keen interest he has taken in studying every word of the Bill and suggesting amendments in respect of every matter in which he had some doubt or other. I could not accept some of his amendments. But I really appreciate the trouble which he had taken in studying the Bill. I find in respect of every Bill he makes a thorough study, word by word, and suggests amendments. I am only reminded of one of my colleagues in the Constituent Assembly and in the Parliament, Sri Naziruddin. He also used to bring numerous amendments and so much so, he used to be called ‘ Amenduddin’. I think that name can be passed on to Sri Krishnaswamy Ayyangar.

“ In addition to the hon. Members of the House, the departments also had taken a good deal of trouble. Particularly I want to place on record the services rendered by the Special Officer Sri C. S. David who had taken a good deal of interest from the beginning in this matter. This has been pending for a long time and I am really happy, Sir, that it has been possible for us to finalise this Bill. I thank the hon. Members once again.”

* SRI M. NARAYANA KURUP :—“ As usual, though the Government and the Opposition had their different views on the subject, this is one of the measures where we had worked together with more than the usual degree of co-operation and though the discussion on the Bill was extended for one day considering its technical nature and the difficulties involved in it, not only the Hon. Leader of the House, the hon. Members on this side but the whole House deserves credit for the expeditious way in which the Bill has been put through. Court-fees is a naughty problem and labours and researches for years resulted in this Bill. A certain amount of rationalisation can be claimed for it. This Bill will be simpler and more intelligible and will not involve as much difficulty as it is usually associated with the court-fees. Some of the difficulties have been already pointed out and the Hon. Leader of the House has himself felt them. For the purpose of putting this Act into effect, the Government have been given ample powers under this Act and I hope it will be properly used to remove all the difficulties.”

SRI T. C. NARAYANAN NAMBIAR :—“ Mr. Speaker, Sir, I am very happy to note that in spite of the Opposition for most of the clauses that we have put, the Hon. Finance Minister was this time very conciliatory as far as many points are concerned, though he did not give up his points. Anyhow, Sir, he was pleased

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to give an assurance with regard to the working of the Tanjore Tenants and Pannayals Protection Act. In this connexion I would like to remind him of the amendment by the hon. Member Sri Gopalakrishnan with regard to Rent Courts in Malabar. After the process fee is collected, even for a petty correction court-fee is levied and even the seal is not yet given to most of the Courts. So many difficulties are there with regard to the working of the Rent Courts in Malabar. I hope the Hon. Finance Minister will take up that issue also and see that the difficulties in the working of the Rent Courts in Malabar are removed at the earliest opportunity.

" Sir, I will take this opportunity to express some of my experience of the various Civil and Criminal Courts in this State. The Hon. Minister for Finance was pleased to state that the awareness of the Government alone will be a safeguard for the guarantee of the fundamental rights. I quite agree. But there are occasions when even the State infringes the fundamental rights of the citizens. It is there the difficulty comes. These Courts are the organs that have to implement the policy of the Government and also to see that the fundamental rights are guaranteed. With due respect to our institutions of judiciary, I would submit, Sir, that no self-respecting human being can go to some of the Courts as even witnesses. That is our experience. Even now in 1955 when an ordinary coolie or a wage-earner goes as a witness even to support the prosecution, he is not offered a seat in the Court. I cannot understand this. When he goes to the Court at 11 a.m. he has to stand in the Court outside till 5 p.m. and even then the case would not have been taken. On the other hand, if he is a richman or a landlord, though he may be a murderer or accused in a case, he will be offered a seat and he can sit in the Court till his case is taken up. I cannot understand such kind of attitude even today.

" With due respect to our judiciary, I would submit that the change in the time is not at all reflected in the attitude of some of the heads of the judiciary, i.e., some of our judges. I have cited an example regarding the offering of seats. Another instance is, a witness would have been waiting for his case to be called by the Judge till 5 p.m. and he would not have even taken food. He would have just gone out to a tea shop for taking a cup of tea. By that time the case would have been called and adjourned stating that the party was not present, or the accused would be acquitted on the ground that the witness was not present. Some instructions will have to be given to effect a change in the attitude of the Judges also and if necessary, some enactment may also be made in this regard.

" Sir, another important point I want to refer to is with regard to reports and information which we should get from the various Courts. I hope I am speaking subject to correction that it will be very useful for the Government as well as the people's

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representatives if we make it a system that the various Courts should submit, if not monthly, a quarterly report to the Government with regard to the nature of the cases, convictions and acquittals and their various experience. It is only then we will be in a position to understand the nature of cases, the development of the society, the kind of crimes taking place, how the Police and other departments are working with regard to investigation of crimes, etc. Our experience shows that such reports from the various courts will be very useful. For example, when hon. Members put certain interpellations, Hon. Ministers are not in a position to reply properly. Some Hon. Ministers say with regard to a question of murder case that suicide has been committed. Sometimes they say that convictions are on the increase. On the other hand, if statistics were with the Government it would have been very easy for them to understand the real position and the real economic, social and political conditions of the State. So I request the Hon. Finance Minister to bring an enactment if necessary or at least issue an executive order that such quarterly reports should be sent to the Government by every Court. Then alone the Government will be in a position to know the actual situation. The most important thing that I want to urge is that some instructions may be issued to the Chief Justice of the High Court in this regard. Anyhow there should be some change in the attitude of Judges. Some of them live in the fourteenth century . . .”

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MR. SPEAKER :—“ I cannot allow the hon. Member to criticise the Judges. If he wants to criticise them, he should bring in a substantive motion.”

SRI T. C. NARAYANAN NAMBIAR :—“ I do not want to cast aspersions on the judiciary. I have already stated that. But when people go to Court, some of the Judges do not take pains to understand the difficulty . . .”

MR. SPEAKER :—“ I cannot allow the hon. Member to say such things. It is quite unparliamentary.”

* SRI M. NARAYANA KURUP :—“ We are precluded from referring only to High Court Judges, according to the provisions of the Constitution.”

* THE HON. SRI C. SUBRAMANIAM :—“ No reflection can be made against any Judge. But still it will be quite irrelevant as far as this Bill is concerned. Further, we are now in the third reading stage. After all, we should observe some rules of debate.”

SRI T. C. NARAYANAN NAMBIAR :—“ The ordinary man undergoes a lot of difficulty to get justice. I hope the Government are aware of these difficulties and will take suitable action. The Hon. Minister has assured that he will try to remove the difficulties of the common man in getting justice. I hope he will implement his assurance.”

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* SRI P. RANGASWAMI REDDIAR :—“ Mr. Speaker, Sir, we are now in the final stage of this Bill. In spite of the best endeavours on the part of this House to show to the outside world that this Bill is not a taxation measure but some sort of measure to collect fees for work done, the outside world understands this only as a taxation measure. For instance, to-day I saw leading articles in two English dailies. They also view this Bill in the same way. I am tempted to call this Bill as ‘ Court-goers ’ ‘ Taxation and Suits Valuation Bill ’ instead of the ‘ Court-fees and Suits Valuation Bill ’. A landlord during the rainy season visited his tenant and asked him, ‘ How do you like my house as a whole, Sir? ’ The tenant said, ‘ The house is only leaky. As a whole, it is all right. As a house, it is very bad, Sir. ’ So also as a taxation measure, this Bill is all right, but as a Court-fee measure, it is not up to the standard expected by many of us. In 1870 the Court-fees Act was passed. Some 80 years elapsed to find out an anomaly in the wording of a particular section which resulted in the litigants paying larger court-fees when they claimed possession of a portion of a land than litigants claiming possession of the whole. About five years have elapsed since this anomaly was pointed out by our High Court. During all these five years litigants were handicapped because no amendment was made in regard to that particular aspect. When I sent a draft Bill to remove the anomaly, it was pointed out by the Secretary here that I should obtain the permission of the Governor because it was a Money Bill. Subsequently, when I addressed the Governor, he declined to accord permission to introduce the Bill. But all on a sudden last week we were told by the Hon. the Finance Minister and by you, Sir, that this was not a taxation measure and that tax, fee and cess are three distinct terms. That is the thing which one has in one’s mind after going through this Bill.

“ I want to draw the attention of the Hon. the Finance Minister to one or two aspects of this Bill. If a mortgage is for Rs. 25,000 and the balance remaining is only Rs. 1,000, if the mortgagee wants to file a suit, he can file a suit in the District Munsif’s Court and he has to pay fee only on Rs. 1,000. On the other hand, if the mortgagor wants to redeem the mortgage, when the same balance is due, he has to go to a Sub-Court because the jurisdictional value is one-fourth of Rs. 25,000, that is Rs. 6,250. Therefore, he has to go to a Sub-Court and has to pay court-fee on Rs. 6,250. It is not at all possible for me to compromise this situation. In attempting to rationalise the Court-fees measure, I think certain anomalies, hardships and distinctions between person and person have been created. I have already pointed about channel rights and easement rights. In the working of this measure, we have to see how it is ultimately going to be beneficial to the litigant population.

“ It is nearly three or four years since the Madras Civil Courts (Amendment) Act was passed giving enlarged jurisdiction to District Munsifs and others. That was not notified and it has not

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come into force so far because of the pendency of this legislation. Now, I think this and all the other necessary measures would be brought into force soon. By the time of the reopening of the Courts in June, I think, this new Court-fees measure and also the measure relating to enlarged jurisdiction will come into force. Previously, the people used to go even up to the Privy Council to get interpretation of the Court-fees Act. Now, the Government should be more vigilant in notifying and in making rules and also in reviewing the working of these measures. Whenever any defect is pointed out by the High Court or some other Court, it should be at once rectified. As far as possible, this measure should be made an easy and definite one for the litigants."

* SRI P. K. GOPALAKRISHNAN :—" Sir, while this House is going to pass this Bill into law, I want to be quite explicit about the apprehensions of the common man regarding this Bill. The common man had been viewing this Bill from its very inception as a taxation measure though the Government had been trying to conceal the issue by saying that this was only a measure relating to fee and not taxation and that this was intended only to remove certain anomalies in the existing Acts and to make the law relating to court-fee uniform. Actually this has proved to be a taxation measure. Only when the Second Schedule was taken into consideration, the Hon. Minister was pleased to state that there had been a general enhancement in the rates of court-fee. But to say that there had been an increase in the money value of things during the last few years, that there had been no increase in court-fee and that, therefore, this Bill is justified, is not fair. But at least then, the Hon. Minister admitted that he had increased the court-fee already. In this connexion, I want to point out that more and more ordinary people have been taking recourse to law courts to have their grievances redressed.

" Sir, it is a phenomenon in democracy that more and more people have recourse to courts of law to get their grievances redressed. Unlike former times when only rich people used to go to courts of law to get thier grievances redressed, even ordinary people—coolies and agricultural labourers—go to law courts on civil matters to see that the wrongs done to them are rectified. So, it is only fair that the court-fee is kept at a very low level so that justice may be obtainable to all people. But on the other hand, according to the Hon. the Finance Minister himself, we have raised the court-fee to a very considerable extent. Sir, on two important points the Opposition pressed for a division. The Hon. the Finance Minister was not at all conciliatory with regard to these points. The first one was with reference to the valuation being based on 30 times the land revenue assessment. The Government did not come down. So, also on the point of making the *ad valorem* fee of 6½ per cent instead of 7½ per cent, they did not concede our demand. (The Hon. Sri C. Subramaniam : 'What is the use of reviewing what has happened?') All these facts are now well known and ordinary people are not going to receive this Bill well because it will affect their whole future.

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It is quite necessary, Sir, to review and remember the whole course of the debate in this House. The Government were of course conciliatory on certain very few minor points. On very important points, they have not been conciliatory. They have been very stiff in their attitude. So, the common people will view with apprehension this Bill and its provisions. I want to warn the Government that they will not at all be glad about this measure.

“Then, Sir, the Government have been saying that the procedure is simplified by this measure. As a matter of fact, the procedure has not at all been simplified. When we took up clause 12 for discussion the Hon. the Finance Minister was saying that the procedure was already prescribed in the existing law which laid down that in a written statement, a defendant had the right to raise the court-fee issue and then the court would review it. Again, the issue could be raised by a defendant added afterwards and reviewed. The law is made more complex and more complicated. Several Bar Associations have pointed out these things and memoranda also were submitted by them. Still the procedure is not simplified. Sir, I am not at all happy about the Bill and the people also are not. With these words, I resume my seat.”

* THE HON. SRI C. SUBRAMANIAM:—“Sir, I am not surprised that the hon. Member Mr. Gopalakrishnan is not happy about the passing of this Bill. He is not happy about this Government and, therefore, when this Government try to get through a Bill in this House, he is unhappy about it. That is typical of a Communist's attitude, the attitude of a hard-boiled Communist like him. Even though other Members are changing, has not unchanged. He is a non-changing Member rather. Apart from that, Sir, I have absolutely no doubt that the legal profession will take an unbiassed view and agree that the procedure has been simplified to a great extent, notwithstanding the fact Mr. Gopalakrishnan belongs to that profession. Hereafter, there will not be so much of litigation regarding interpretation of Court Fees Act. But in spite of our best intentions, even simplification of procedure itself creates further difficulties. That is the whole difficulty. We are trying to solve one difficulty which gives rise to new difficulties. I am hoping that such a thing will not happen in the case of this Bill. But if it happens, we will have to face it as we face all other problems that confront human society. Perhaps our successors with a better sense of proportion and with more experience may be able to further simplify the procedure. We have tried our best to solve the problem. I am not prepared to say there will be no shortcomings and I do not say that this piece of legislation is perfect. There may be flaws. But we have tried our best to meet the changing circumstances. As was pointed out by Mr. Rangaswami Reddiar, this legislation should not be viewed in parts but in all its aspects. If that is done, I have absolutely no doubt that it will satisfy everybody and will be passed unanimously now. I hope at least at this stage, third reading stage, there will not be any opposition, not even one ‘no’.”

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* SRI P. K. GOPALAKRISHNAN :—“ On a point of personal explanation, Sir. The Hon. the Minister for Finance said that I was not happy about the Government themselves and so I was not happy about this measure, or for that matter, any other measures, that the Government might bring in. That is not the case. Whenever the Government bring in any progressive measure, we are happy about it. For example, the Government have introduced agricultural income-tax. We welcomed it. There are many more Bills to be taken up during this sitting and the Government will find us supporting them in respect of many of those Bills.”

* THE HON. SRI C. SUBRAMANIAM :—“ What I said was it was bad enough to be a Communist but for a lawyer to be a Communist was a worse thing.” (Laughter.)

* SRI P. K. GOPALAKRISHNAN :—“ Apart from the question whether to be a Communist is bad or good, the Hon. the Finance Minister said that I was a non-changing Communist. Sir, that is against Communism itself. The very fundamentals of Communism says that the only constant law is that changes constantly take place in society and therefore a non-changing Communist is not a Communist at all.”

MR. SPEAKER :—“ The question is—

‘ That the Madras Court Fees and Suits Valuation Bill, 1954 (L.A. Bill No. 25 of 1954) as amended, be passed into law.’ ”

The Motion was put and carried and the Bill was passed.

V.—GOVERNMENT MOTION.

MOTION UNDER RULE 21 (3) OF THE ASSEMBLY RULES *re* CHANGE IN THE ORDER OF BUSINESS.

THE HON. SRI C. SUBRAMANIAM :— “ Sir, I move—

‘ *that under rule 21 (3) of the Assembly Rules, the order of business be changed and that the Madras City Civil Court (Amendment) Bill, 1955, be taken up now, instead of the Presidency Small Cause Courts (Madras Amendment) Bill, 1955.*’

We shall now take up the Madras City Civil Court (Amendment) Bill, 1955. The other Bill can be taken up to-morrow.”

MR. SPEAKER :—“ The question is—

‘ *that under rule 21 (3) of the Assembly Rules, the order of business be changed and that the Madras City Civil Court (Amendment) Bill, 1955, be taken up now, instead of the Presidency Small Cause Courts (Madras Amendment) Bill, 1955.*’ ”

The Motion was put and carried.